

# BUY AMERICA COMPLIANCE PROGRAM PLAN



# HART

HONOLULU AUTHORITY for RAPID TRANSPORTATION

Approved By:

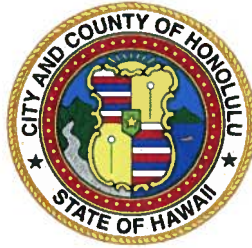
A handwritten signature in black ink, appearing to read "D. Grabauskas", is written over a horizontal line. To the right of the signature, the date "12/14/12" is handwritten.

Daniel A. Grabauskas  
Executive Director and CEO

December 12, 2012

Date

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## REVISIONS

Changes to the Buy America Compliance Program Plan (BACPP) shall be made as necessary to conform with 49 U.S.C. 5323(j); 23 U.S.C. 103(e)(4) and Section 14 of the National Capital Transportation Act of 1969, as amended. As major revisions occur, the entire BACPP shall be reproduced, published via HART Intranet. Printed copies (Uncontrolled) or obsolete versions shall be destroyed.

REV	DATE	SECTION(S)	DESCRIPTION
0	12/12/12	All	First Issue

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# **1 INTRODUCTION**

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This Buy America Compliance Program Plan (BACPP) applies to all federally assisted procurements using funds authorized by 49 U.S.C. 5323(j); 23 U.S.C. 103(e) (4); and section 14 of the National Capital Transportation Act of 1969, as amended.

Per “Buy America” law, federal funds may not be obligated unless, steel, iron and manufactured products used in FTA-funded projects are produced in the United States, unless FTA has granted a waiver. This law also refers to 49 CFR Part 661, Buy America Requirements; 49 CFR Part 663, and Pre-Award and Post-Delivery Audits of Rolling Stock Purchases. Rolling Stock must have sixty percent (60%) domestic content and final assembly must take place in the United States.

HART management has a great knowledge and experienced of these regulations and its application to the Honolulu Rail Transit Project (HRTTP). Progressing to the Final Design, Construction, Integrated Testing, Pre-revenue Operations and Operations Phases of the HRTTP, the Buy America Compliance Program Plan (BACPP) was established to assure that: track and structures; signals and controllers; communications systems; traction power systems; rolling stock; yard and maintenance facilities; stations, including ADA access provisions (Elevators and Escalators); parking lots; and ticket vending machines are designed, procured, and constructed in accordance with established design, engineering, quality and Buy America requirements. These requirements provide the controls for design, procurement, construction, inspection and testing, which will enable HART to be in compliance with the regulations, and assured that the quality necessary for safe and reliable operation of its transit system is achieved.

All construction including relocation of utilities and core system procurement Request for Proposal (RFP) and Invitation to Bid (ITB) has required a Certification for steel, iron and manufactured products including the Core System Contract, which include the Rolling Stock (rail vehicles).

Some sections of this BACPP are supplemented with implementing procedures to provide more detailed steps and guidelines in performing work related to Buy America. Each implementing procedure is controlled and maintained autonomously and included as an Appendix to this BACPP.

The HART Buy America Compliance Policy and Authority is shown on **Appendix 1**.

## 2 MANAGEMENT RESPONSIBILITY

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### 2.1 Scope

- 2.1.1 The HART Buy America Functional Organization Chart is shown in **Appendix 2**. Based on the Functional Organization Chart, the organizational structure, levels of authority, responsibility assignments and lines of communication for activities affecting Buy America compliance are clearly established and delineated. This section describes the tasks for which the departments are responsible and the duties/functions that they shall perform.
- 2.1.2 The Buy America Compliance Officer (BACO) supported by all H RTP Quality Assurance (QA) personnel shall have the authority and responsibility to assure that the BACPP is correctly and effectively executed and verified, and to assure a direct access to the Executive Office, where appropriate action can be affected.
- 2.1.3 The BACO shall have authority and organizational freedom to assure that the H RTP meet the Buy America requirements and this BACPP.

### 2.2 Duties and Responsibilities

- 2.2.1 Executive Office: The Executive Director and CEO and/or Deputy Executive Director have the overall responsibility for the prudent and proper management of the H RTP, and implementation of HART policies, plans and procedures including the Buy America regulations. The Executive Office also ensures integration and coordination between FTA, other city divisions, state agencies and third parties involved on the H RTP.
- 2.2.2 System Safety and Security (SS&S): The Chief Safety and Security Officer (CSSO) shall be responsible for the safe and secured operation of the transit system. The CSSO shall assure that System Safety Certifiable Elements (e.g., Elevators, Escalators, Ticket Vending Machines, etc.) articulated in the System Safety Certification Program Plan (SSCPP) meets Buy America requirements and are tested, verified, validated and certified prior to use.
- 2.2.3 Buy America Compliance Officer (BACO): The Director of Quality Assurance and Quality Control (DQA/QC) is designated as the Buy America Compliance Officer (BACO) who is also responsible for establishing and implementing the BACPP. The BACO shall assure that all employees, consultants, contractors, vendors including their subs,

comply with the BACPP and contracts requirements. The BACO shall also be responsible for Buy America planned internal and external audits of HART and contractors, consultants and suppliers, respectively.

- 2.2.3 Chief Financial Officer (CFO): The CFO shall be responsible for the controls and administration of the H RTP. Reporting to the CFO are the managers of: configuration control; grants and finance; project controls; and procurement and contract administration.
- 2.2.4 Director of Engineering and Construction (DEC): The DEC shall be responsible for managing the design, engineering, construction, and testing. Reporting to the DEC are the Deputy Director of Engineering (DDE) and Deputy Director of Construction (DDC) for: design-build contracts (guideways, and maintenance and storage facilities); design-bid-build contracts (stations); facilities; design-build-operate-maintain contract and for core system. Also reporting to the DEC is the General Engineering Consultants (GEC) and Construction Engineering & Inspection (CE&I) firms.
- 2.2.5 Procurement/Contract Officer (PCO): The PCO is responsible for all procurement activities and contract administration of each individual contracts describe in the Contract Packaging Plan (CPP) for the H RTP. The PCO shall assure that Buy America requirements for Rolling Stock, steel, iron and manufactured products (as defined in § 661.3, § 661.5 and § 661.6) are being procured and included in the procurement documents [Request for Proposal (RFP) and/or Invitation to Bid (ITB)].
- 2.2.6 Deputy Director of Engineering (DDE): The DDE shall be responsible for the preparation of Design Criteria, Specifications and Issued for Construction (IFC) plans. The DDE shall assure that Buy America requirements on steel, iron and manufactured products including rolling stocks are specified on the special provisions of the contract documents. The DDE shall assign a Project Manager for each contract and assure that design and engineering consultants and suppliers meet their Contract and Buy America requirements.
- 2.2.7 Deputy Director of Construction (DDC): The DDC shall be responsible for the construction of the H RTP. The DDC shall assign a Project Manager for each contract and assure that the contractors and suppliers meet their Contract and Buy America requirements.

- 2.2.8 Project Manager (PM): The PM shall be responsible for the final design and construction of assigned contract, respectively. The PM responsibilities are: implementation of the HART established Design and Construction Management Manuals; and assure that contractors and suppliers' meet their contract and Buy America requirements.
- 2.2.9 Contract Resident Engineer/Construction Resident Engineer & Inspection (CRE/CE&I): The CRE/CE&I are responsible for the implementation of the HART established Resident Engineers Manual. The CRE/CE&I shall assure that the contractors and suppliers comply with the contract and Buy America requirements; and each contractor and supplier develop an Approve Vendors List (AVL), which is described in detail on Section 7 of this BACPP.
- 2.2.10 Contract Administrator (CA): The CA shall be responsible for the administration of assigned contracts and shall interface with the PM of the status of the contractors' and suppliers' Buy America implementation quarterly.
- 2.2.11 GEC Deputy Buy America Compliance Officer (GDBACO): The GDBACO shall be responsible for review, oversight and audits of all Contractors Buy America implementation as a "piggyback" to the normal QA activities with the exception of the CSC, which will be performed by the HART Deputy Buy America Compliance Officer (HDBACO).
- 2.2.12 HDBACO: The HDBACO shall be responsible for review, oversight, and audits of Ansaldo Honolulu Joint Venture (AHJV) Buy America Compliance Program Plan for the DBOM contract (Rolling Stock and Systems/Controls).

## **2.3 Interface Control**

- 2.3.1 All departments shall be responsible for assuring that the Buy America requirements and regulations are complied with. Specific interface duties, responsibilities, and functions of each organization/department that affect Buy America are defined and documented in various sections of this BACPP.
- 2.3.2 Interface between HART and the FTA regarding the Buy America shall be the responsibility of the Deputy Legal Counsel.



## **2.4 Departmental Responsibility**

- 2.4.1 Whenever a specific organization is addressed on this BACPP, the respective officers, directors and department managers shall be responsible for all required activities to be performed. Each officer and director may designate any or all of the work to others within his/her own department only. This person shall assure that the specific departmental activities are met.
- 2.4.2 Every officer/director/manager shall be responsible for assuring that the BACPP requirements applicable to their domain are observed.
- 2.4.3 A Deputy Legal Counsel is assigned to HART by the City Office of the Corporation Counsel for legal advice and issues. The City also requires that Procurement Documents including Buy America provisions and Change Orders (CO) are reviewed by the Legal Counsel.

## 3 DOCUMENTED BUY AMERICA COMPLIANCE PROGRAM

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### 3.1 Scope

3.1.1 The Buy America Compliance Program as described in this BACPP is established to:

- A. Include a Buy America provisions of 49 CFR Part 661 (**Appendix 4**) for all procurement of rolling stock, steel, iron and manufactured products, except products with a waiver or small purchases of \$100,000 or less;
- B. Obtain and retain Buy America Certifications from successful Contractors or Vendors for purchases of more than \$100,000;
- C. Conduct Pre-Award and Post-Delivery Audits of its purchases of Rolling Stock over \$100,000, and properly complete and file Pre-Award and Post-Delivery Certifications in accordance with 49 CFR Part 663 (**Appendix 5**);
- D. Provide a process to verify the domestic content of vehicles, its components, and subcomponents prior to awarding of the contract;
- E. Provide Resident (in-plant) Inspectors during the manufacturing process, final assembly and testing;
- F. Provide a description of the off-site manufacturing activities taking place during Final Assembly of the equipment, which were partially manufactured in the United States;
- G. Assure that steel, iron and manufactured products meets the FTA requirements and documented; and
- H. Executive Office bi-annual assessments of the adequacy of the BACPP and assure its effective implementation.

### 3.2 Responsibilities

3.2.1 HART performs the function of and has overall responsibility for contracting and procuring design, engineering, and construction (e.g., structures, facilities, betterments, etc.), items (e.g. structures, materials, tools, equipment, systems, etc.) and services (health and environmental; public relations and community outreach; operations and maintenance). The BACO and all QA personnel shall have the authority and responsibility to assure that the BACPP is correctly and effectively

executed and verified, and to assure a direct access to the HART Executive Office, where appropriate action can be affected.

- 3.2.2 Contractors, consultants and suppliers providing design, engineering, construction, items and services to HART shall be required to submit an **Approved Vendors List (AVL)**, which is applicable for their respective scope of work, for approval. The AVL shall include as a minimum: vendors name and address (e.g., LB Foster/CXT [Spokane, WA], Nortrak [Pueblo, CO], Ervaz Steel (Pueblo, CO), etc) ; purchased materials, parts and equipment (e.g., Rails, Structural and Reinforcing Steel, Turn-outs, Light Fixtures, Buffers, etc.); and traceability (e.g., Certificate of Conformance, Certified Material Test Reports, Made in USA Label, etc.). Upon BACO approval, the AVL shall be employed to their specific projects/contracts, services, or items required by HART. See Sections 7 Purchased Iron, Steel and Manufactured Products of this BACPP for more detailed description.

For the Core System DBOM Contract, Ansaldo Honolulu Joint Venture (AHJV) will submit a **Buy America Compliance Plan (ABACP)**. The ABACP will be divided in two (2) parts: 1) Part A will be for the Rail Vehicles, which will employ the Buy America Compliance Matrix (BACM) used in the Pre-Award Audit. The BACM will be the basis of verifying and controlling the required 60% domestic content; and 2) Part B will be for the Systems and Controls and AHJV will develop an autonomous BACM for the components and subcomponents supplied for the systems and train controls per 49 CFR 661.11 (t) through (w) as a minimum, which delineates a list of typical components for system and train control. The ABACP will be reviewed and approved by the BACO prior to use. See Section 6 Pre-Award and Post-Delivery Audits of Rolling Stock of this BACPP for more detailed description.

- 3.2.3 The BACO shall have the authority and organizational freedom to assure that the H RTP are designed and engineered, constructed, tested, and maintained in accordance with the requirements of this BACPP. The BACO, GDBACO and HDBACO) shall be responsible for monitoring, oversight, and Buy America audits internally and all contractors, consultants, and suppliers to assure that their respective AVL are effectively implemented.

### **3.3 Control and Distribution of the BACPP**

- 3.3.1 The Master Copy of the BACPP and all revisions made on the BACPP shall be maintained and controlled by the BACO. The most current revision of the BACPP (Master Copy) shall be published on the HART established Oracle Contract Management System (CMS) under controlled documents in PDF file format and shall be made available to all appropriate personnel as "Read Only."
- 3.3.2 Any paper printed copy of the BACPP shall be deemed "Uncontrolled Copy" and will not be subjected for updates and audits.
- 3.3.3 Appropriate personnel shall be notified officially by the BACO through the Document Control Manager, of the availability of the BACPP on the HART CMS, and required to acknowledge the notification memorandum issued. A list of personnel who were notified will be maintained and controlled by the Document Control Manager.

### **3.4 Revisions to the BACPP**

- 3.4.1 The BACO shall be responsible for the revisions of the BACPP. The revisions shall be reviewed and approved in the same manner as the original issue. The BACPP will be reviewed and updated when FTA Buy America regulation, which impacted the BACPP; changes are needed for process improvements; audits results (noncompliance and corrective actions) are from system inadequacies and inefficiencies; results from the management review of the adequacy of the BACPP implementation necessitates a change; and major changes in the Buy America Functional Organization Chart and responsibility assignment. These changes shall be toward an enhancement of the BACPP and not the other way around.
- 3.4.2 All revisions made to the BACPP shall be identified in the revision control sheet, which will indicate the latest revision level and the affected section(s) and page (s). The revision level of the BACPP shall also be identified by the revision level and date shown on the Cover Page. The

revised BACPP shall be published on the HART Intranet with the revised cover page indicating latest BACPP revision level and date of Executive Office approval.

- 3.4.3 Appropriate personnel shall be notified officially of the revisions made to the BACPP on the HART Intranet, and required to acknowledge the notification memorandum issued. A list of personnel who were notified of the revisions will be maintained and controlled by the Document Control Manager.

### **3.5 Orientation and Training of Personnel**

Orientation and training of personnel shall be performed to assure that suitable proficiency is achieved and maintained. HART shall provide orientation and training of appropriate personnel. All personnel performing activities that affect Buy America shall be properly trained prior to their performance of such activities. The BACO shall be responsible for the BACPP orientation and training of personnel. The HART Training Matrix will be updated by the Document Control Specialist to assure and document orientation and training of appropriate personnel. Training is described in more detail in Section 14 of this BACPP.

### **3.6 Management Review of the BACPP**

- 3.6.1 The BACO shall schedule a meeting with the Executive Office bi-annually to review the adequacy of the BACPP. During the meeting the overall effectiveness of the BACPP will be discussed. Records of the review meeting shall be kept by the BACO.
- 3.6.2 The management review may be “piggyback” with the bi-annual QA assessment review of the QMP.
- 3.6.3 The BACPP shall be updated: if the results of the bi-annual review of the adequacy and effectiveness of the BACPP was not met; if continuous improvement is necessary and new Buy America regulations are published. Updates, when needed, shall be presented and discussed during the bi-annual management review meeting by the BACO prior to change and use.

## **4 DESIGN REVIEW**

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### **4.1 Scope**

4.1.1 This section is established to assure that:

- A. Design specifications, regulatory and code requirements, engineering standards, and recommended practices are correctly translated into drawings, specifications, procedures, and instructions;
- B. The FTA Buy America requirements are included in the design criteria and technical specifications;
- C. Appropriate quality standards are specified into the design documents;
- D. Selection and review for application of materials and processes that are essential to construction are suitable;
- E. Design review/checking, and certification by appropriate licensed professionals are performed;
- F. All design documents and their respective changes are reviewed and approved by HART; and
- G. Issuance and distribution of all design documents are properly controlled.

4.1.2 Design review shall be achieved through the requirements stipulated in this BACPP and the HART-approved QAP submitted by the consultant, contractor, or supplier as required by the contract and/or procurement documents.

### **4.2 Definition, Initiation and Coordination of Activities**

4.2.1 HART generally does not perform actual design work internally. The work is being performed by consultants, contractors, or suppliers. All technical and quality requirements are specified in the contract documents issued by HART to the consultants, contractors and/or suppliers. HART shall be responsible for maintaining Buy America oversight and audits of the consultants, contractors, and suppliers.

4.2.2 The DEC shall define and establish in the contract or purchase order (PO) what activities are to be carried out by the consultants, contractors, and/or suppliers, and what design documents and deliverables are to be prepared and submitted to HART. The DEC shall also be responsible to coordinate the work and verify that the consultants, contractors, and/or suppliers have all the applicable design basis specifications, codes and regulations,

acceptance criteria and limits, quality standards and other contractual requirements during the performance of their work.

### **4.3 Development of Design Documents, Specifications, Procedures and Instructions**

- 4.3.1 All design documents (drawings, design reports and calculations) required shall be developed by the consultants, contractors, and/or suppliers in accordance with the requirements defined by the contract or PO, and revisions thereof in accordance with their QAP approved by HART. The consultants, contractors, and/or suppliers shall review and check the documents during their development stage and assure that the Buy America requirements incorporated into the design documents.
- 4.3.2 All design documents shall be properly identified with the name of the project/contract, location, project/contract number, sheet or page number, revision level, and date of issuance, and shall be properly controlled in accordance with their HART approved QAP.

### **4.4 Design Review and Documents Approval**

- 4.4.1 The GDBACO shall review all baseline documents: Design Criteria and Technical Specifications issued to date and check if all specified materials (steel and iron) and manufactured products are available as items manufactured in the United State or meet the Buy America requirements. If a material or manufactured product, which are not available has been specified, the GDBACO shall prepare a List of Noncompliance (LON) and submit the LON to the DEC for Design Change Notices and eventually Contract Change Orders for existing contracts.
- 4.4.2 The HDBACO shall review all Rolling Stock baseline documents: Design Criteria and Technical Specifications issued to date and check if all specified materials meet the 49 CFR Part 663 Buy America requirements.
- 4.4.3 The BACO shall be responsible for resolution of comments when there is a difference of opinions or conflicts received from the consultants, contractors, and/or suppliers with regards to Buy America issues on a timely basis.
- 4.4.4 All design document revisions shall require the same approval, review/check and certification cycle as the original issue. Each revision shall be easily and readily distinguished in the design documents.

## **4.5 Design Support during Construction**

- 4.5.1 The consultants, contractors, and/or suppliers shall perform design support services during construction. The designers shall: interpret the design documents, if interface conflicts arises, resolution of Buy America noncompliance, incorporation of Field Change Notices (FCN) and Design Change Notices (DCN), assure conformance with the System Configuration Management and preparation of As-Built documents.



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## **5 PROCUREMENT**

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### **5.1 Scope**

5.1.1 This section is established to assure that:

- A. Design and engineering, construction, items (e.g., steel, iron, materials, machinery, equipment, other manufactured products) are procured in accordance with the City's Procurement Code under HRS Chapter 103D, BFS Policies and Procedures Manual and FTA Circular 4220; and
- B. Procurement documents and contracts are prepared and reviewed to include technical, quality, commercial and Buy America (49 CFR Part 661 and 49 CFR Part 663) requirements.

### **5.2 Definition, Initiation and Coordination of Activities**

- 5.2.1 All HART Projects/Contracts (design and engineering, real estate, construction, equipment and services) are procured, acquired, or contracted to consultants, contractors, land owners, or suppliers. HART generally does not perform actual design and engineering, construction, manufacturing, maintenance and servicing functions internally. However, HART plans, procures, manages, and controls all projects/contracts and operations including maintenance. HART shall be responsible for maintaining QA and Buy America oversight and audits of contractors, consultants, and suppliers. Contractors, consultants, and suppliers, when applicable, will be required to submit an AVL (for Construction) and ABACP (for Core System) for HART approval, during their execution of the work.
- 5.2.2 The DEC shall be responsible for the preparation, review, and approval of Technical Specifications, Special Conditions, Cost Estimates, and Cost Analysis for approved projects/contracts.
- 5.2.3 The PCO shall be responsible for the preparation, review, approval, and issuance of procurement documents (PO, Contracts, and General Conditions, including Buy America, Amendments and Change Orders) to selected and approved consultants, contractors, and suppliers.
- 5.2.4 In compliance with the federal and HART procurement requirements, the PCO shall be responsible for soliciting bids (ITB) or Requests for

Proposals (RFP) for all appropriate procurement (e.g., Design-Bid-Build, Design-Build, Design-Build-Operate-Maintain, etc.).

- 5.2.5 The DEC and PCO shall support the Executive Office in appointing the project "Selection Committee" who will be responsible for the evaluation, and selection of consultants, contractors, and suppliers. Selection shall be based on cost, responsibility qualification, reliability, competency, responsiveness, and compliance to federal, state, county and local requirements. The "Selection Committee" shall employ the results of evaluation of the proposals and/or bids performed by designated reviewers of various trades and expertise.
- 5.2.6 HART shall perform all procurement activities and shall control and maintain all original contracts, procurement records, change orders and supporting documents.

## **6 PRE-AWARD AND POST-DELIVERY AUDIT OF ROLLING STOCK**

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### **6.1 Scope**

- 6.1.1 Federally funded rolling stock (rail vehicles) requires compliance with: 49 CFR Part 661 Buy America Requirements, and 49 CFR Part 663: Pre-Award and Post-Delivery Audits of Rolling Stock Purchases.
- 6.1.2 HART will also employ the following Buy America Guidelines: FTA Handbook DC-90-7713-93-1 Revision B, May 1, 1995, Conducting Pre-Award and Post-Delivery Reviews for Rail Vehicle Procurements.
- 6.1.3 HART will develop its own Buy America Compliance Matrix (BACM) to be used during the Pre-Award Audit. This will assure that the FTA Buy America requirements of minimum 60% domestic content are met. During this process, HART will interface with the FTA and the PMOC to assure that the BACM is complete and accurate.

### **6.2 Definition, Initiation and Coordination of Activities**

- 6.2.1 HART in-house Audit Team will perform the Pre-Award Audit of AHJV and will employ the HART-developed BACM to assure that all items in the list of major components per 49 CFR 661.11 Appendix C are considered components and not subcomponents, for the purpose of calculating the domestic content for rolling stock.
- 6.2.2 Based on the BACM and each of the projected component and subcomponent part listed, the Audit Team will review the suppliers and manufacturers, their respective country of origin, and their quotes or projected costs. Costs such as total rail vehicle domestic cost shall be examined and calculated in accordance with FTA Buy America requirements. All cost shall be calculated in US Dollars. Conversions from foreign currencies shall be performed during the date of the audit prior to incorporation in of the BACM.

- 6.2.3 The proposed final assembly location in the United States shall be visited to verify and qualify the facilities' capacity and technical capability to perform final assembly activities including quality, testing, scheduling and cost of final assembly.
- 6.2.4 Upon successful completion of the audit and final assembly site visit, the Audit Team will recommend issuance of required Certifications for: Buy America Compliance Certification; and Purchaser's Requirements Certification. Per 49 CFR 663, HART is required to maintain signed copies of these certifications, along with a copy of the audit report in the Project procurement files and make this available to the FTA for review.
- 6.2.5 In addition to the Pre-Award audit requirements, HART must comply with the Post-Delivery Audit requirements during and after the rail vehicle manufacturing. The process is the similar as the Pre-Award except that HART is now certifying the actual rail vehicles rather than the proposed rail vehicles. Employing the HART-developed BACM from the Pre-Award Audit, the domestic content of the rail vehicle shall not be less than 60% and verification of actual U.S. Final Assembly location, activities and total cost.

During the manufacturing and final assembly stages of the contract, Interim Buy America Audits shall be performed by at least bi-annually to assure that the input on the BACM and the requirements of minimum 60% domestic content are being met.

- 6.2.6 Upon successful completion of the Post-Delivery Audit, HART must certify that the rail vehicles are built to contract specifications. HART duly appointed analyst and Resident Inspector must complete a manufacturing report including accurate records of all rail vehicle construction and manufacturing activities (e.g., component manufacturing process, final assembly activities, and quality records collected). In addition a description of how the construction and operation of the rail vehicles fulfills the contract specifications will be analyzed. HART will complete the following certification for Post-Delivery: Post-Delivery Buy America Compliance Certification and Post-Delivery Purchaser's Requirements Certification.

## 7 PURCHASED IRON, STEEL, AND MANUFACTURED PRODUCTS

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### 7.1 Scope

- 7.1.1 Procurement documents and contracts are prepared and reviewed to include technical, quality, commercial and 49 CFR Part 661 Buy America requirements;
- 7.1.2 Contractors and suppliers shall submit the required “Certificate of Compliance with Buy America Requirement” (**Appendix 3**) and to implement when the contract was awarded.

### 7.2 Definition, Initiation and Coordination of Activities

- 7.2.1 Contractors and suppliers providing design, engineering, construction, items and services to HART shall be required to submit an **Approved Vendors List (AVL)**, which is applicable for their respective scope of work, for approval.
- 7.2.2 The AVL shall include as a minimum: Vendors’ name and address (e.g., LB Foster/CXT [Spokane, WA], Nortrak [Pueblo, CO], Ervaz Steel [Pueblo, CO], etc) ; Purchased Materials, Parts and Equipment (e.g., Rails, Structural/Reinforcing Steel, Turn-outs, Pipes, Tubes, Light Fixtures, Appliances, etc.); and Traceability (e.g., Certificate of Conformance, Certified Material Test Reports, Made in USA Label, etc.). Samples of the CMTR(s) certifying that items were manufactured in the U.S.A. are shown in **Appendix 6**.
- 7.2.3 The AVL shall be submitted to HART through the CRE for review and approval. Upon HART (BACO), approval the AVL shall be employed by the contractors and suppliers to their specific projects/contracts, services, or items required by HART. See example of AVL with supporting documents in **Appendix 12**.
- 7.2.4 The CRE/CE&I and their field office staff shall monitor the contractors and suppliers implementation of the Buy America requirements.

## **8 INSPECTION**

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### **8.1 Scope**

- 8.1.1 This section is established to assure that the consultants, contractors, and suppliers are in compliance with the requirements of procurement documents and contracts (e.g., drawings, specifications, instructions, Buy America and other regulatory requirements, applicable codes, standards and practices, etc.).
- 8.1.2 The consultants, contractors and/or suppliers shall be completely responsible for compliance with the requirements of procurement documents and the contracts. Inspection of work by HART in no way relieves the consultants, contractors, and suppliers of their responsibilities.

### **8.2 Definition, Initiation and Coordination of Activities**

- 8.2.1 The DEC shall specify the inspection work required to be performed by contractors and/ suppliers, and designated CRE/CE&I.
- 8.2.2 The CRE/CE&I shall implement their HART Construction Management Manual (CMM) and appropriate CRE Manual (DB or DBB) during inspection to assure compliance with this BACPP, construction contracts and professional services contracts.
- 8.2.3 The contractors and/or suppliers shall be responsible for preparation and planning of inspections required by the contracts. The contractors and/or suppliers shall prepare an AVL, and submit to HART for review and approval prior to use.
- 8.2.4 The BACO shall be consulted by the CRE/CE&I during the review of the contractor and/or supplier AVL.
- 8.2.5 HART shall be responsible for the review and approval of all AVL. The CRE/CE&I shall assist the BACO in the review and approval of the AVL and monitoring the execution of the approved AVL by the contractors and/or suppliers.
- 8.2.6 The BACO, HDBACO, GDBACO and all QA staff shall monitor the Buy America activities and audits of HART, consultants, contractors and/or suppliers to assure their compliance with this BACPP and construction contracts.

## **9 NONCOMPLIANCE**

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### **9.1 Scope**

- 9.1.1 This section is established to assure that all noncompliance materials, parts and components to the Buy America requirements are:
- A. Prevented from being incorporated in all installation work or into the final product;
  - B. Properly identified, put on hold or segregated from compliant items while awaiting disposition and approval from the FTA, if necessary; and
  - C. Reported for immediate disposition of noncompliance.

### **9.2 Definition, Initiation, and Coordination of Activities**

- 9.2.1 Noncompliance to Buy America requirements is not allowed in the H RTP.
- 9.2.2 Employees of HART shall report to the BACO any noncompliance detected during the performance of their duties and resolved in accordance with this BACPP.
- 9.2.3 All consultants including the CRE/CE&I shall assure that noncompliance conditions, materials, parts and components are not inadvertently used or installed within their organization or the construction site. CRE/CE&I shall be responsible for managing and controlling the noncompliance and its disposition in accordance with this BACPP. All “closed-out” Noncompliance Reports generated by the CRE/CE&I shall be submitted to HART (BACO).
- 9.2.4 All contractors and/or suppliers shall assure that noncompliant conditions, materials, parts and components are not inadvertently used or installed. The contractor and/or supplier shall be responsible for managing and controlling the noncompliance and its disposition (**Scrap, Replace, Return to Vendor, or Other**) in accordance with this BACPP. All “closed-out” Noncompliance Reports generated by the contractor and/or supplier shall be submitted to HART through the CRE/CE&I.
- 9.2.5 The BACO has the overall responsibility for monitoring and auditing the CRE/CE&I, and contractor and/ supplier in accordance with this BACPP.
- 9.2.6 All “closed-out” Noncompliance Reports shall be submitted to HART and shall be included in the Project Procurement Files.

### **9.3 Internal Noncompliance**

- 9.3.1 All non-compliances initiated by HART employee(s) shall be documented on a Noncompliance Report (NCR) Form (**Appendix 7**) and submitted to the BACO. The BACO shall log the NCR on the NCR Log (**Appendix 8**), which is maintained by the BACO. The NCR shall include the following as minimum information:
- A. Project;
  - B. Item Identification;
  - C. Report Number;
  - D. Date of Occurrence;
  - E. Description of Noncompliance;
  - F. Disposition (**Scrap, Replace, Return to Vendor**);
  - G. Cause of Noncompliance; and
  - H. Corrective Action to preclude recurrence.
- 9.3.2 All internal “closed-out” Noncompliance Reports shall be submitted to BACO and shall be included in the Project Procurement Files.

### **9.4 External Noncompliance**

- 9.4.1 Noncompliance discovered by consultants, contractors, suppliers and the CRE/CE&I shall be resolved in accordance with this BACPP.
- 9.4.2 All external “closed-out” Noncompliance Reports shall be submitted to BACO and shall be included in the Project Procurement Files.



## **10 CORRECTIVE ACTION**

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### **10.1 Scope**

10.1.1 This section is established to:

- A. Assure that conditions which are adverse to Buy America requirements are promptly identified and corrected;
- B. Determine the root cause of noncompliance and take corrective measures to prevent recurrence;
- C. Document and report to appropriate management and FTA all records and procedures used in correcting the condition of noncompliance; and
- D. Assure that corrective actions resulting from Buy America Audits are properly corrected and immediately responded to.

### **10.2 Definition, Initiation and Coordination of Activities**

10.2.1 Corrective action shall be required for all noncompliance Buy America Audit Findings.

10.2.2 The BACO shall be responsible for defining the corrective action request to the responsible organization. The corrective action request shall include the following, as applicable:

- A. Person or organization responsible for defining the corrective action;
- B. Violation of Buy America requirements;
- C. Description of the noncompliance;
- D. Date when response is required;
- E. Action to be taken to prevent recurrence, and date when corrective action is completed or will be completed;
- F. Initiator and date of issuance;
- G. Corrective Action Acceptance and
- H. Closeout.

10.2.3 The individual or organization responsible for the noncompliance from Buy America Audit Findings shall determine the root cause of the problem, and identify and implement corrective action to preclude recurrence.

- 10.2.4 The BACO shall review and approve the proposed corrective action with the concurrence of the appropriate organization/department manager.
- 10.2.5 Follow-up actions to verify corrective action implementation shall be performed by the BACO. Follow-up actions shall be performed by either of the following methods:
  - A. The responsible organization shall submit documentary evidence to verify the completion of the indicated corrective action; or
  - B. The corrective action will be verified by the BACO, HDBACO and/or GDBACO at the responsible individual or organization's premises. This verification shall be documented on the corrective action request.

### **10.3 Corrective Action Records**

- 10.3.1 The BACO shall be responsible for storage and maintenance of corrective action records. Corrective Action Records shall be kept and maintained at the Project Procurement Files

# 11 AUDITS

## 11.1 Scope

- 11.1.1 This section is established to:
- A. Verify implementation and compliance with all aspects of the BACPP and to determine the effectiveness of the system;
  - B. Assure that Buy America audits and interim audits (Rolling Stock) are performed per schedule and in accordance with a written checklist by qualified personnel;
  - C. Assure that all audit results are documented and reviewed by management responsible for the area audited and made available to the FTA, upon request; and
  - D. Assure that follow-up actions and actual verification, including re-audit of deficient areas are performed.
- 11.1.2 Audits shall be professionally conducted in accordance with BAP 19 – Buy America Audit Procedure (**Appendix 10**).

## 11.2 Definition, Initiation, and Coordination of Activities

- 11.2.1 Audits shall be planned and conducted by HART or a consultant qualified and competent in the field of Buy America Audits. The BACO shall be responsible for assuring that an audit of each element of the BACPP is performed annually.
- 11.2.2 Special audits may also be performed in areas affecting Buy America when major changes are made in the BACPP and the regulations.
- 11.2.3 Audits shall be performed in accordance with written procedures and checklist by competent and experienced auditors selected and certified by HART. Auditors are qualified and certified by the BACO and shall have sufficient authority and organizational freedom to make the audit process meaningful and effective.
- 11.2.4 After each audit, a report will be prepared by the Lead Auditor. The report shall describe the results of the audits and findings and submitted to the BACO for evaluation and approval and then forwarded to the Executive Office and the department and senior management of organization audited for information and corrective action, if required.

- 11.2.5 All negative findings and deficiencies shall require corrective actions. Corrective actions shall be identified and implemented in accordance with Section 10 – CORRECTIVE ACTION of this BACPP.
- 11.2.6 The BACO shall analyze audit data and reports to determine quality trends and the effectiveness of the BACPP and its implementation.
- 11.2.7 Buy America Audit Reports shall be distributed per Subsection 11.2.4.

### **11.3 Management Review**

- 11.3.1 Internal and External Audit Reports shall be reviewed with the Executive Office and appropriate department managers by the BACO. This review shall be performed as a “piggyback” during the annual management review and assessment of the adequacy and effectiveness of the established QMP and BACCP. Records of the annual meeting shall be kept by the BACO.

## 12 CERTIFICATIONS

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### 12.1 Scope

- 12.1.1 This section is established to assure that all Certifications required by Buy America and contracts are completed and maintained in the Project Procurement Files in accordance with 49 CFR Part 663; and
- 12.1.2 Certifications are made available to FTA for review. See **Appendix 9** for example of Certifications.

### 12.2 Definition, Initiation and Coordination of Activities

#### 12.2.1 Pre-Award Audit Certifications:

- A. A **Buy America Compliance Certification** that identifies rail vehicle components and subcomponents by manufacturer of the parts, the manufacturer's country of origin and costs, the expected location of the final assembly plant for the rail vehicle, the description of the activities that will take place at the assembly plant, and the proposed cost of final assembly.
- B. A **Purchaser's Requirements Certification** that the rail vehicle recipient is contracting for the same product as described in the purchaser's solicitation specifications, and the proposed manufacturer is a responsible manufacturer with the capacity and capability to produce a rail vehicle that meets the purchaser's specifications set forth in the recipient solicitation.

#### 12.2.2 Post-Delivery Audit Certification:

- A. **Post-Delivery Buy America Certification** that identifies rail vehicle components and subcomponents by manufacturer of the parts, the manufacturer's country of origin and costs, the actual location of the final assembly plant for the rail vehicle, the description of the activities that took place at the final assembly plant, and the cost of final assembly.
- B. **Post-Delivery Purchaser's Requirements Certification** that the purchaser's Resident Inspector(s) were at the manufacturing site throughout the period of manufacture of the rail vehicle to be purchased and that the Resident Inspector(s) monitored and completed a report on the manufacture of such rail vehicle.

- 12.2.3 Completed (Signed) Contractor's and Supplier's Certificate of Compliance with Buy America Requirements, which was required in the RFP and ITB shall be kept and maintained in the Project Procurement Files.

## **13 REPORTING**

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### **13.1 Scope**

- 13.1.1 This section is established to describe the Buy America reporting requirements on the H RTP.

### **13.2 Definition, Initiation and Coordination of Activities**

- 13.2.1 The CRE/CE&I shall include the status of Buy America and activities in the Project/Contract Monthly Reports, respectively. The CRE/CE&I shall also include Buy America in Contracts Weekly Progress Meetings.
- 13.2.2 AHJV shall provide an updated BACM quarterly for the first 18 months after the contract has been executed and issuance of appropriate NTP. The review will allow verification of Ansaldo Breda Pre-Award planning data and will provide early identification of any potential domestic content compliance problems. After 18 months, AHJV shall provide status of BACM updates whenever changes were made.
- 13.2.3 AHJV shall identify any proposed change and that the pertinent notifications Ansaldo Breda assessment as to whether and how the change will affect the BACM.
- 13.2.4 All contractors and/or suppliers shall notify HART through the CRE/CE&I any changes to their respective AVL, which will affect the Buy America requirements.
- 13.2.5 The BACO shall review all the reports regarding Buy America and appraise the Executive Office and PMOC/FTA of the status of BACPP implementation on a quarterly basis.

## 14 TRAINING

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### 14.1 Scope

- 14.1.1 This section is established to assure that the BACPP include documented procedures for scheduling and performing of training for key personnel on the BACPP to assure that suitable proficiency is achieved and maintained.
- 14.1.2 All personnel whose duties will affect Buy America within the scope of this BACPP are trained to the extent necessary by BACO to ensure that the employees have a working knowledge of the BACPP and that the employees are committed to implement it.

### 14.2 Definition, Initiation and Coordination of Activities

- 14.2.1 The No. 2.PA – 07 Training Procedure (**Appendix 11**) describing the orientation and training of appropriate personnel, which also include a Matrix, is established and controlled by the DQA/QC to determine which HART personnel requires training and what subject is provided. The Training Matrix is prepared to include a schedule and list of relevant personnel within HART.
- 14.2.2 Records documenting training as described in this section shall be prepared by the designated trainer (BACO) and forwarded to the Document Control Manager for posting to the HART CMS Module. These records shall contain the following information as a minimum:
  - A. Date,
  - B. Subject,
  - C. Attendees, and
  - D. Instructor/Trainer.

# GLOSSARY

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**Accept:** Agree to or concur with. As used herein, acceptance requires signing.

**As-Built Drawings:** Drawings reflecting as constructed and that have been reconciled with the Design Report.

**Audit:** A documented activity performed in accordance with written procedure to verify, by examination and evaluation of objective evidence, that selected elements of the quality system have been developed, documented, and implemented in accordance with specified requirements. An audit does not include surveillance or inspection for the purpose of process control or acceptance of materials or items.

**Contractor:** A party to a third party contract other than the grantee (HART).

**Components:** Any article, material, or supply, whether manufactured or un-manufactured, that is directly incorporated into the end product at the final assembly location.

**Corrective Action:** An action undertaken to identify the cause of a deficiency, discrepancy, or nonconformity in order to correct a condition adverse to quality and safety and prevent recurrence.

**Design Documents:** These documents include Design Specifications, Design Calculations, Design Drawings, and Design Reports.

**Disposition:** An action to resolve a noncompliance.

**End Product:** A vehicle, structure, product, article, material, supply or system, which directly incorporates constituent components at the final assembly location, that is acquired for public use under a federally-funded third-party contract, and which is ready to provide its intended end function or use without any further manufacturing or assembly change(s).

**Grantee:** Any entity that is a recipient of FTA funds (City of Honolulu, HI: HART)

**Item:** Any product, material, structure, system and/or components.

**Lifetime Records:** Records that are to be controlled and maintained during the duration of the existence of a structure, item, equipment, parts and components.

**Manufactured Products:** An item produced as a result of a manufacturing process.



**Manufacturing Process:** The application of processes to alter the form or function of materials or of elements of the product in a manner adding value and transforming those materials or elements so that they represent a new end product functionally different from that which would result from mere assembly of the elements or materials.

**Noncompliance:** Any item that does not meet Buy America requirements.

**Procedure:** A step-by-step instruction for carrying out a process, inspection, control, examination, and/or test.

**Quality Assurance:** All those planned and systematic actions necessary to provide adequate confidence that all items designed and constructed will perform satisfactorily in service.

**Quality Control:** The examination of the physical characteristic of a material or item to establish conformance to the acceptance standards associated with those examinations.

**Review:** Examine in detail. Reviewing of documents shall always require signing and dating by the authorized reviewer, either on the documents or on records traceable to the documents. When review is performed, it is for acceptance or approval.

**Rolling Stock:** Transit vehicles such as buses, vans, cars, railcars, locomotives, trolley cars and busses, ferry boats, as well as vehicles used for support services.

**Scrap:** Non-conforming items which are unfit to be used as is, repaired, reworked, or returned to supplier. Scrap shall be identified and segregate from conforming items.

**Signing and Sign-off:** When used herein, means signing, initialing, or stamping and always dated.

**Supplier:** A material supplier, material manufacturer, service supplier, or contractor.

**System:** A machine, product or device or a combination of such equipment, consisting of individual components whether separate or interconnected by piping, transmission devices, electrical cables or circuitry, or by other devices, which are intended to contribute together to a clearly defined function.

**Verification:** An act of confirming, substantiating, or assuring that an activity or condition has been satisfactorily performed or created in compliance with specified requirements.

# ACRONYMS

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<b>ABACP</b>	Ansaldo Buy America Compliance Plan
<b>AHJV</b>	Ansaldo Honolulu Joint Venture
<b>AVL</b>	Approved Vendors List
<b>BA</b>	Buy America
<b>BACO</b>	Buy America Compliance Officer
<b>BACM</b>	Buy America Compliance Matrix
<b>BACPP</b>	Buy America Compliance Program Plan
<b>CE&amp;I</b>	Construction Engineer and Inspection
<b>CEO</b>	Chief Executive Officer
<b>CMM</b>	Construction Management Manual
<b>CMS</b>	Oracle Contract Management System
<b>CRE</b>	Contract Resident Engineer
<b>CO</b>	Change Order
<b>DBOM</b>	Design-Build-Operate-Maintain
<b>DCN</b>	Design Change Notice
<b>DEC</b>	Director of Engineering and Construction
<b>FCN</b>	Field Change Notice
<b>FTA</b>	Federal Transit Administration
<b>GEC</b>	General Engineering Consultant
<b>HART</b>	Honolulu Authority for Rapid Transportation
<b>H RTP</b>	Honolulu Rapid Transit Project
<b>ITB</b>	Invitation to Bid
<b>MOSE</b>	Maintenance of Systems and Equipment
<b>MOW</b>	Maintenance of Way
<b>NCR</b>	Noncompliance Report
<b>NTP</b>	Notice to Proceed
<b>O&amp;M</b>	Operation and Maintenance
<b>PMOC</b>	Project Management Oversight Contractor
<b>PO</b>	Purchase Order
<b>PR</b>	Purchase Requisition
<b>QAP</b>	Project Quality Assurance Plan
<b>QA</b>	Quality Assurance
<b>QC</b>	Quality Control
<b>QIP</b>	Quality Implementing Procedure
<b>QMP</b>	Quality Management Plan
<b>RFP</b>	Request for Proposal
<b>SS&amp;S</b>	System Safety and Security
<b>SSMP</b>	Safety and Security Management Plan
<b>USDOT</b>	United States Department of Transportation

# APPENDIX 1



HONOLULU AUTHORITY for RAPID TRANSPORTATION

## **BUY AMERICA STATEMENT OF AUTHORITY AND POLICY**

The Honolulu Authority for Rapid Transportation (HART) recognizes that the establishment and maintenance of a formal and effective Buy America Compliance Program Plan (BACPP) is fundamental to meet the regulatory requirements of 49 CFR Part 661 and 49 CFR Part 663.

It is the policy of HART to perform all work in accordance with all transit system related regulatory and code requirements (Federal, State, County and City), Industries Standards and Recommended Practices, and Best Practices recommended by the Federal Transit Administration (FTA) and American Public Transportation Association (APTA).

The authority and responsibility of the management of the HART BACPP has been delegated to the Buy America Compliance Officer (BACO), who reports directly to the HART Executive Director and CEO shall have sufficient authority and organizational freedom to assure effective implementation of 49 CFR Part 661 and 49 CFR Part 663 requirements articulated in the BACPP.

All personnel involved in the design, construction, testing, operation and maintenance services, must operate in accordance with this BACPP. All HART consultants, vendors, contractors and subcontractors personnel performing functions related to Buy America shall have sufficient authority, access to work areas, and organizational freedom to: identify Buy America problems; initiate, recommend, or provide solutions to the problems through designated channels; verify implementation of solutions; and assure that further work is controlled until proper disposition of a noncompliance and unsatisfactory condition has occurred.

The HART Executive Director and CEO shall review and resolve any noncompliance or corrective action needed that cannot be concluded by the BACO. Interpretations to the Buy America requirements that can not be concluded by the Executive Director and CEO and BACO shall be elevated to the FTA through the Project Management Oversight Contractor (PMOC) assigned to the HART.

A handwritten signature in black ink, appearing to read "D. Grabauskas", is positioned above a horizontal line.

Daniel A. Grabauskas  
Executive Director and CEO

# APPENDIX 2



Revision 0 12/12/12

# APPENDIX 3

**EXHIBIT 7**  
**BUY AMERICA CERTIFICATE**

This procurement is subject to the Federal Transit Administration's (FTA's) Buy America Requirements (49 C.F.R. Part 661).

The "Certificate of Compliance with Buy America Requirements" (Exhibit 7a) or the "Certificate of Non-Compliance with Buy America Requirements" (Exhibit 7b) must be completed and submitted with the Proposal. After the Proposal Due Date, each Offeror is bound by its original certification; however, in accordance with 49 U.S.C Section 5323(j)(8), an Offeror may have the opportunity to correct an inadvertent error in its certification. An Offeror may correct any certification of noncompliance or failure to properly complete this certification if the Offeror attests under penalty of perjury that it submitted an incorrect certification as a result of an inadvertent or clerical error. The burden of establishing such inadvertent or clerical error is on the Offeror. The Offeror's failure to sign the certification is not considered an inadvertent or clerical error. A Proposal which does not include the certificate will be considered non-responsive.

A false certification is a criminal act in violation of 18 U.S.C. Section 1001. Should this procurement be investigated, the successful Offeror has the burden of proof to establish that it is in compliance.

A waiver of Buy America requirements may be sought by the City if grounds for the waiver exist; however, the Offeror certifies that it will comply with the applicable Buy America requirements if a waiver of those requirements is not available.



**EXHIBIT 7a**

**CERTIFICATE OF COMPLIANCE WITH  
BUY AMERICA REQUIREMENTS**

☐ Prototype Vehicles

☐ Passenger Vehicles

☐ Fare Vending System

☐ Communication Systems

☐ Traction Electrification System

☐ Train Control System

☐ Balance of Core Systems Work

The Offeror hereby certifies that it will comply with the requirements of 49 U.S.C. Section 5323(j)(1), and the applicable regulations in 49 C.F.R. Part 661. Identify the Subsystem that complies by checking the appropriate boxes above and fill out the balance of the form.

Date: \_\_\_\_\_

Signature: \_\_\_\_\_

Offeror: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**EXHIBIT 7b**

**CERTIFICATE OF NON-COMPLIANCE WITH  
BUY AMERICA REQUIREMENTS**

☐ Prototype Vehicles

☐ Passenger Vehicles

☐ Fare Vending System

☐ Communication Systems

☐ Traction Electrification System

☐ Train Control System

☐ Balance of Core Systems Work

The Offeror hereby certifies that it cannot comply with the requirements of 49 U.S.C. Section 5323(j), but may qualify for an exemption to the requirement to 49 U.S.C. Section 5323(j)(2), as amended, and regulations in 49 C.F.R. Part 661. Identify the Subsystem that does not comply by checking the appropriate boxes above and fill out the balance of the form..

Date: \_\_\_\_\_

Signature: \_\_\_\_\_

Offeror: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**EXHIBIT 7**  
**BUY AMERICA CERTIFICATE**

This procurement is subject to the Federal Transit Administration's (FTA's) Buy America Requirements (49 C.F.R. part 661).

The "Certificate of Compliance with Buy America Requirements" (Exhibit 7a) or the "Certificate of Non-Compliance with Buy America Requirements" (Exhibit 7b) must be completed and submitted with the Proposal. After the Proposal Due Date, each Offeror is bound by its original certification. However, in accordance with 49 USC 5323(j)(8), an Offeror may have the opportunity to correct an inadvertent error in its certification. An Offeror may correct any certification of noncompliance or failure to properly complete this certification if the Offeror attests under penalty of perjury that it submitted an incorrect certification as a result of an inadvertent or clerical error. The burden of establishing such inadvertent or clerical error is on the Offeror. The Offeror's failure to sign the certification is not considered an inadvertent or clerical error. A Proposal which does not include the certificate will be considered non-responsive.

A false certification is a criminal act in violation of 18 U.S.C. 1001. Should this procurement be investigated, the successful Offeror has the burden of proof to establish that it is in compliance.

A waiver of Buy America requirements may be sought by the City if grounds for the waiver exist, however, the Offeror certifies that it will comply with the applicable Buy America requirements if a waiver of those requirements is not available.

**EXHIBIT 7a**

**CERTIFICATE OF COMPLIANCE WITH  
BUY AMERICA REQUIREMENTS**

The Offeror hereby certifies that it will comply with the requirements of 49 U.S.C. 5323(j)(1), and the applicable regulations in 49 C.F.R. part 661.

Date: \_\_\_\_\_

Signature: \_\_\_\_\_

Offeror: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**EXHIBIT 7b**

**CERTIFICATE OF NON-COMPLIANCE WITH  
BUY AMERICA REQUIREMENTS**

The Offeror hereby certifies that it cannot comply with the requirements of 49 U.S.C. 5323(j), but may qualify for an exemption to the requirement to 49 U.S.C. 5323(j)(2), as amended, and regulations in 49 C.F.R. 6617.

Date: \_\_\_\_\_

Signature: \_\_\_\_\_

Offeror: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

# APPENDIX 4

## § 661.1

## 49 CFR Ch. VI (10-1-11 Edition)

### § 661.1 Applicability.

Unless otherwise noted, this part applies to all federally assisted procurements using funds authorized by 49 U.S.C. 5323(j); 23 U.S.C. 103(e)(4); and section 14 of the National Capital Transportation Act of 1969, as amended.

[56 FR 932, Jan. 9, 1991, as amended at 72 FR 53696, Sept. 20, 2007]

### § 661.3 Definitions.

As used in this part:

*Act* means the Federal Public Transportation Law (49 U.S.C. Chapter 53).

*Administrator* means the Administrator of FTA, or designee.

*Component* means any article, material, or supply, whether manufactured or unmanufactured, that is directly incorporated into the end product at the final assembly location.

*Contractor* means a party to a third party contract other than the grantee.

*End product* means any vehicle, structure, product, article, material, supply, or system, which directly incorporates constituent components at the final assembly location, that is acquired for public use under a federally-funded third-party contract, and which is ready to provide its intended end function or use without any further manufacturing or assembly change(s). A list of representative end products is included at Appendix A to this section.

*FTA* means the Federal Transit Administration.

*Grantee* means any entity that is a recipient of FTA funds.

*Manufactured product* means an item produced as a result of the manufacturing process.

*Manufacturing process* means the application of processes to alter the form or function of materials or of elements of the product in a manner adding value and transforming those materials or elements so that they represent a new end product functionally different from that which would result from mere assembly of the elements or materials.

*Negotiated procurement* means a contract awarded using other than sealed bidding procedures.

*Rolling stock* means transit vehicles such as buses, vans, cars, railcars, loco-

motives, trolley cars and buses, and ferry boats, as well as vehicles used for support services.

*System* means a machine, product, or device, or a combination of such equipment, consisting of individual components, whether separate or interconnected by piping, transmission devices, electrical cables or circuitry, or by other devices, which are intended to contribute together to a clearly defined function. Factors to consider in determining whether a system constitutes an end product include: Whether performance warranties apply to an integrated system (regardless of whether components are separately warranted); whether products perform on an integrated basis with other products in a system, or are operated independently of associated products in the system; or whether transit agencies routinely procure a product separately (other than as replacement or spare parts).

*United States* means the several States, the Commonwealth of Puerto Rico, the District of Columbia, Guam, American Samoa, the U.S. Virgin Islands, and the Commonwealth of the Northern Mariana Islands.

#### APPENDIX A TO § 661.3—END PRODUCTS

The following is a list of representative end products that are subject to the requirements of Buy America. This list is representative, not exhaustive.

(1) *Rolling stock end products*: All individual items identified as rolling stock in § 661.3 (e.g., buses, vans, cars, railcars, locomotives, trolley cars and buses, ferry boats, as well as vehicles used for support services); train control, communication, and traction power equipment that meets the definition of end product at § 661.3 (e.g., a communication or traction power system, including manufactured bimetallic power rail).

(2) *Steel and iron end products*: Items made primarily of steel or iron such as structures, bridges, and track work, including running rail, contact rail, and turnouts.

(3) *Manufactured end products*: Infrastructure projects not made primarily of steel or iron, including structures (terminals, depots, garages, and bus shelters), ties and ballast; contact rail not made primarily of steel or iron; fare collection systems; computers; information systems; security systems; data processing systems; and mobile lifts, hoists, and elevators.

[72 FR 53696, Sept. 20, 2007, as amended at 74 FR 30239, June 25, 2009]

**Federal Transit Admin., DOT**

**§ 661.7**

**§ 661.5 General requirements.**

(a) Except as provided in § 661.7 and § 661.11 of this part, no funds may be obligated by FTA for a grantee project unless all iron, steel, and manufactured products used in the project are produced in the United States.

(b) All steel and iron manufacturing processes must take place in the United States, except metallurgical processes involving refinement of steel additives.

(c) The steel and iron requirements apply to all construction materials made primarily of steel or iron and used in infrastructure projects such as transit or maintenance facilities, rail lines, and bridges. These items include, but are not limited to, structural steel or iron, steel or iron beams and columns, running rail and contact rail. These requirements do not apply to steel or iron used as components or subcomponents of other manufactured products or rolling stock, or to bimetallic power rail incorporating steel or iron components.

(d) For a manufactured product to be considered produced in the United States:

(1) All of the manufacturing processes for the product must take place in the United States; and

(2) All of the components of the product must be of U.S. origin. A component is considered of U.S. origin if it is manufactured in the United States, regardless of the origin of its subcomponents.

[61 FR 6302, Feb. 16, 1996, as amended at 74 FR 30239, June 25, 2009]

**§ 661.6 Certification requirements for procurement of steel or manufactured products.**

If steel, iron, or manufactured products (as defined in §§ 661.3 and 661.5 of this part) are being procured, the appropriate certificate as set forth below shall be completed and submitted by each bidder or offeror in accordance with the requirement contained in § 661.13(b) of this part.

*Certificate of Compliance with Buy America Requirements*

The bidder or offeror hereby certifies that it will comply with the require-

ments of 49 U.S.C. 5323(j)(1), and the applicable regulations in 49 CFR part 661.

Date \_\_\_\_\_  
Signature \_\_\_\_\_  
Company \_\_\_\_\_  
Name \_\_\_\_\_  
Title \_\_\_\_\_

*Certificate of Non-Compliance with Buy America Requirements*

The bidder or offeror hereby certifies that it cannot comply with the requirements of 49 U.S.C. 5323(j), but it may qualify for an exception to the requirement pursuant to 49 U.S.C. 5323(j)(2), as amended, and the applicable regulations in 49 CFR 661.7.

Date \_\_\_\_\_  
Signature \_\_\_\_\_  
Company \_\_\_\_\_  
Name \_\_\_\_\_  
Title \_\_\_\_\_

[71 FR 14117, Mar. 21, 2006, as amended at 72 FR 53696, Sept. 20, 2007]

**§ 661.7 Waivers.**

(a) Section 5323(j)(2) of Title 49 United States Code provides that the general requirements of 49 U.S.C. 5323(j)(1) shall not apply in four specific instances. This section sets out the conditions for the three statutory waivers based on public interest, non-availability, and price-differential. Section 661.11 of this part sets out the conditions for the fourth statutory waiver governing the procurement of rolling stock and associated equipment.

(b) Under the provision of 49 U.S.C. 5323(j)(2)(A), the Administrator may waive the general requirements of 49 U.S.C. 5323(j)(1) if the Administrator finds that their application would be inconsistent with the public interest. In determining whether the conditions exist to grant this public interest waiver, the Administrator will consider all appropriate factors on a case-by-case basis, unless a general exception is specifically set out in this part. When granting a public interest waiver, the Administrator shall issue a detailed written statement justifying why the waiver is in the public interest. The Administrator shall publish this justification in the **FEDERAL REGISTER**, providing the public with a reasonable



time for notice and comment of not more than seven calendar days.

(c) Under the provision of 49 U.S.C. 5323(j)(2), the Administrator may waive the general requirements of 49 U.S.C. 5323(j) if the Administrator finds that the materials for which a waiver is requested are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality.

(1) It will be presumed that the conditions exist to grant this non-availability waiver if no responsive and responsible bid is received offering an item produced in the United States.

(2) In the case of a sole source procurement, the Administrator will grant this non-availability waiver only if the grantee provides sufficient information which indicates that the item to be procured is only available from a single source or that the item to be procured is not produced in sufficient and reasonably available quantities of a satisfactory quality in the United States.

(3) After contract award, the Administrator may grant a non-availability waiver under this paragraph, in any case in which a bidder or offeror originally certified compliance with the Buy America requirements in good faith, but can no longer comply with its certification. The Administrator will grant a non-availability waiver only if the grantee provides sufficient evidence that the original certification was made in good faith and that the item to be procured cannot now be obtained domestically due to commercial impossibility or impracticability. In determining whether the conditions exist to grant a post-award non-availability waiver, the Administrator will consider all appropriate factors on a case-by-case basis.

(d) Under the provision of section 165(b)(4) of the Act, the Administrator may waive the general requirements of section 165(a) if the Administrator finds that the inclusion of a domestic item or domestic material will increase the cost of the contract between the grantee and its supplier of that item or material by more than 25 percent. The Administrator will grant this price-differential waiver if the amount of the lowest responsive and responsible bid offering the item or material that is

not produced in the United States multiplied by 1.25 is less than the amount of the lowest responsive and responsible bid offering the item or material produced in the United States.

(e) The four statutory waivers of 49 U.S.C. 5323(j)(2) as set out in this part shall be treated as being separate and distinct from each other.

(f) The waivers described in paragraphs (b) and (c) of this section may be granted for a component or subcomponent in the case of the procurement of the items governed by 49 U.S.C. 5323(j)(2)(C) (requirements for rolling stock). If a waiver is granted for a component or a subcomponent, that component or subcomponent will be considered to be of domestic origin for the purposes of § 661.11 of this part.

(g) The waivers described in paragraphs (b) and (c) of this section may be granted for a specific item or material that is used in the production of a manufactured product that is governed by the requirements of § 661.5(d) of this part. If such a waiver is granted to such a specific item or material, that item or material will be treated as being of domestic origin.

(h) The provisions of this section shall not apply to products produced in a foreign country if the Secretary, in consultation with the United States Trade Representative, determines that:

(1) That foreign country is party to an agreement with the United States pursuant to which the head of an agency of the United States has waived the requirements of this section; and

(2) That foreign country has violated the terms of the agreement by discriminating against products covered by this section that are produced in the United States and are covered by the agreement.

#### APPENDIX A TO § 661.7—GENERAL WAIVERS

(a) All waivers published in 48 CFR 25.104 which establish excepted articles, materials, and supplies for the Buy American Act of 1933 (41 U.S.C. 10a-d), as the waivers may be amended from time to time, apply to this part under the provisions of § 661.7 (b) and (c).

(b) Under the provisions of § 661.7 (b) and (c) of this part, a general public interest waiver from the Buy America requirements applies to microprocessors, computers, microcomputers, or software, or other such devices, which are used solely for the purpose of processing or storing data. This general

waiver does not extend to a product or device which merely contains a microprocessor or microcomputer and is not used solely for the purpose of processing or storing data.

(c) Under the provisions of § 661.7(b) of this part, a general public interest waiver from the Buy America requirements for "small purchases" (as defined in the "common grant rule," at 49 CFR 18.36(d)) made by FTA grantees with capital, planning, or operating assistance.

[56 FR 932, Jan. 9, 1991, as amended at 60 FR 37928, July 24, 1995, 61 FR 6302, Feb. 16, 1996; 71 FR 14117, Mar. 21, 2006; 72 FR 53697, Sept. 20, 2007; 74 FR 30239, June 25, 2009]

#### § 661.9 Application for waivers.

(a) This section sets out the application procedures for obtaining all waivers, except those general exceptions set forth in this part for which individual applications are unnecessary and those covered by 49 U.S.C. 5323(j)(2)(C). The procedures for obtaining an exception covered by 49 U.S.C. 5323(j)(2)(C) are set forth in § 661.11 of this part.

(b) A bidder or offeror who seeks to establish grounds for an exception must seek the exception, in a timely manner, through the grantee.

(c) Except as provided in paragraph (d) of this section, only a grantee may request a waiver. The request must be in writing, include facts and justification to support the waiver, and be submitted to the Administrator through the appropriate Regional Office.

(d) FTA will consider a request for a waiver from a potential bidder, offeror, or supplier only if the waiver is being sought under § 661.7 (f) or (g) of this part.

(e) The Administrator will issue a written determination setting forth the reasons for granting or denying the exception request. Each request for an exception, and FTA's action on the request, are available for public inspection under the provisions of 49 CFR part 601, subpart C.

[56 FR 932, Jan. 9, 1991, as amended at 71 FR 14117, Mar. 21, 2006; 72 FR 53697, Sept. 20, 2007]

#### § 661.11 Rolling stock procurements.

(a) The provisions of § 661.5 do not apply to the procurement of buses and other rolling stock (including train control, communication, and traction power equipment), if the cost of components produced in the United States is

more than 60 percent of the cost of all components and final assembly takes place in the United States.

(b) The domestic content requirements in paragraph (a) of this section also apply to the domestic content requirements for components set forth in paragraphs (i), (j), and (l) of this section.

(c) A component is any article, material, or supply, whether manufactured or unmanufactured, that is directly incorporated into an end product at the final assembly location.

(d) A component may be manufactured at the final assembly location if the manufacturing process to produce the component is an activity separate and distinct from the final assembly of the end product.

(e) A component is considered to be manufactured if there are sufficient activities taking place to advance the value or improve the condition of the subcomponents of that component; that is, if the subcomponents have been substantially transformed or merged into a new and functionally different article.

(f) Except as provided in paragraph (k) of this section, a subcomponent is any article, material, or supply, whether manufactured or unmanufactured, that is one step removed from a component (as defined in paragraph (c) of this section) in the manufacturing process and that is incorporated directly into a component.

(g) For a component to be of domestic origin, more than 60 percent of the subcomponents of that component, by cost, must be of domestic origin, and the manufacture of the component must take place in the United States. If, under the terms of this part, a component is determined to be of domestic origin, its entire cost may be used in calculating the cost of domestic content of an end product.

(h) A subcomponent is of domestic origin if it is manufactured in the United States.

(i) If a subcomponent manufactured in the United States is exported for inclusion in a component that is manufactured outside the United States and it receives tariff exemptions under the procedures set forth in 19 CFR 10.11

through 10.24, the subcomponent retains its domestic identity and can be included in the calculation of the domestic content of an end product even if such a subcomponent represents less than 60 percent of the cost of a particular component.

(j) If a subcomponent manufactured in the United States is exported for inclusion in a component manufactured outside the United States and it does not receive tariff exemption under the procedures set forth in 19 CFR 10.11 through 10.24, the subcomponent loses its domestic identity and cannot be included in the calculation of the domestic content of an end product.

(k) Raw materials produced in the United States and then exported for incorporation into a component are not considered to be a subcomponent for the purpose of calculating domestic content. The value of such raw materials is to be included in the cost of the foreign component.

(l) If a component is manufactured in the United States, but contains less than 60 percent domestic subcomponents, by cost, the cost of the domestic subcomponents and the cost of manufacturing the component may be included in the calculation of the domestic content of the end product.

(m) For purposes of this section, except as provided in paragraph (o) of this section:

(1) The cost of a component or a subcomponent is the price that a bidder or offeror must pay to a subcontractor or supplier for that component or subcomponent. Transportation costs to the final assembly location must be included in calculating the cost of foreign components and subcomponents.

(2) If a component or subcomponent is manufactured by the bidder or offeror, the cost of the component is the cost of labor and materials incorporated into the component or subcomponent, an allowance for profit, and the administrative and overhead costs attributable to that component or subcomponent under normal accounting principles.

(n) The cost of a component of foreign origin is set using the foreign exchange rate at the time the bidder or offeror executes the appropriate Buy America certificate.

(o) The cost of a subcomponent that retains its domestic identity consistent with paragraph (j) of this section shall be the cost of the subcomponent when last purchased, f.o.b. United States port of exportation or point of border crossing as set out in the invoice and entry papers or, if no purchase was made, the value of the subcomponent at the time of its shipment for exportation, f.o.b. United States port of exportation or point of border crossing as set out in the invoice and entry papers.

(p) In accordance with 49 U.S.C. 5323(j), labor costs involved in final assembly shall not be included in calculating component costs.

(q) The actual cost, not the bid price, of a component is to be considered in calculating domestic content.

(r) Final assembly is the creation of the end product from individual elements brought together for that purpose through application of manufacturing processes. If a system is being procured as the end product by the grantee, the installation of the system qualifies as final assembly.

(s) [Reserved]

(t) Train control equipment includes, but is not limited to, the following equipment:

- (1) Mimic board in central control
- (2) Dispatcher's console
- (3) Local control panels
- (4) Station (way side) block control relay cabinets
- (5) Terminal dispatcher machines
- (6) Cable/cable trays
- (7) Switch machines
- (8) Way side signals
- (9) Impedance bonds
- (10) Relay rack bungalows
- (11) Central computer control
- (12) Brake equipment
- (13) Brake systems
- (14) Cab Signaling;
- (15) ATO Equipment;
- (16) ATP Equipment;
- (17) Wayside Transponders;
- (18) Trip Stop Equipment;
- (19) Wayside Magnets;
- (20) Speed Measuring Devices;
- (21) Car Axle Counters;
- (22) Communication Based Train Control (CBTC).

(u) Communication equipment includes, but is not limited to, the following equipment:

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- (1) Radios
- (2) Space station transmitter and receivers
- (3) Vehicular and hand-held radios
- (4) PABX telephone switching equipment
- (5) PABX telephone instruments
- (6) Public address amplifiers
- (7) Public address speakers
- (8) Cable transmission system cable
- (9) Cable transmission system multiplex equipment
- (10) Communication console at central control
- (11) Uninterruptible power supply inverters/rectifiers
- (12) Uninterruptible power supply batteries
- (13) Data transmission system central processors
- (14) Data transmission system remote terminals
- (15) Line printers for data transmission system
- (16) Communication system monitor test panel
- (17) Security console at central control
- (18) Antennas;
- (19) Wireless Telemetry Equipment;
- (20) Passenger Information Displays;
- (21) Communications Control Units;
- (22) Communication Control Heads;
- (23) Wireless Intercar Transceivers;
- (24) Multiplexers;
- (25) SCADA Systems;
- (26) LED Arrays;
- (27) Screen Displays such as LEDs and LCDs for communication systems;
- (28) Fiber-optic transmission equipment;
- (29) Fiber-optic transmission equipment;
- (30) Frame or cell based multiplexing equipment; 13) Communication system network elements.

(v) Traction power equipment includes, but is not limited to the following:

- (1) Primary AC switch gear
- (2) Primary AC transformer rectifiers
- (3) DC switch gear
- (4) Traction power console and CRT display system at central control
- (5) Bus ducts with buses (AC and DC)
- (6) Batteries
- (7) Traction power rectifier assemblies
- (8) Distribution panels (AC and DC)

- (9) Facility step-down transformers
- (10) Motor control centers (facility use only)
- (11) Battery chargers
- (12) Supervisory control panel
- (13) Annunciator panels
- (14) Low voltage facility distribution switch board
- (15) DC connect switches
- (16) Negative bus boxes
- (17) Power rail insulators
- (18) Power cables (AC and DC)
- (19) Cable trays
- (20) Instrumentation for traction power equipment
- (21) Connectors, tensioners, and insulators for overhead power wire systems
- (22) Negative drainage boards
- (23) Inverters
- (24) Traction motors
- (25) Propulsion gear boxes
- (26) Third rail pick-up equipment
- (27) Pantographs
- (28) Propulsion Control Systems;
- (29) Surge Arrestors;
- (30) Protective Relaying.
- (31) Bimetallic power rail.

(w) The power or third rail is not considered traction power equipment and is thus subject to the requirements of 49 U.S.C. 5323(j) and the requirements of §661.5.

(x) A bidder on a contract for an item covered by 49 U.S.C. 5323(j) who will comply with section 165(b)(3) and regulations in this section is not required to follow the application for waiver procedures set out in §661.9. In lieu of these procedures, the bidder must submit the appropriate certificate required by §661.12.

**APPENDIX A TO §661.11—GENERAL WAIVERS**

(a) The provisions of §661.11 of this part do not apply when foreign sourced spare parts for buses and other rolling stock (including train control, communication, and traction power equipment) whose total cost is 10 percent or less of the overall project contract cost are being procured as part of the same contract for the major capital item.

(b) [Reserved]

**APPENDIX B TO §661.11—TYPICAL COMPONENTS OF BUSES**

The following is a list of items that typically would be considered components of a bus. This list is not all-inclusive.

Car body shells, engines, transmissions, front axle assemblies, rear axle assemblies,

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drive shaft assemblies, front suspension assemblies, rear suspension assemblies, air compressor and pneumatic systems, generator/alternator and electrical systems, steering system assemblies, front and rear air brake assemblies, air conditioning compressor assemblies, air conditioning evaporator/condenser assemblies, heating systems, passenger seats, driver's seat assemblies, window assemblies, entrance and exit door assemblies, door control systems, destination sign assemblies, interior lighting assemblies, front and rear end cap assemblies, front and rear bumper assemblies, specialty steel (structural steel tubing, etc.) aluminum extrusions, aluminum, steel or fiberglass exterior panels, and interior trim, flooring, and floor coverings.

### APPENDIX C TO § 661.11—TYPICAL COMPONENTS OF RAIL ROLLING STOCK

The following is a list of items that typically would be considered components of rail rolling stock. This list is not all inclusive.

Car shells, engines, main transformer, pantographs, traction motors, propulsion gear boxes, interior linings, acceleration and braking resistors, propulsion controls, low voltage auxiliary power supplies, air conditioning equipment, air brake compressors, brake controls, foundation brake equipment, articulation assemblies, train control systems, window assemblies, communication equipment, lighting, seating, doors, door actuators and controls, wheelchair lifts and ramps to make the vehicle accessible to persons with disabilities, couplers and draft gear, trucks, journal bearings, axles, diagnostic equipment, and third rail pick-up equipment.

### APPENDIX D TO § 661.11—MINIMUM REQUIREMENTS FOR FINAL ASSEMBLY

(a) Rail Cars: In the case of the manufacture of a new rail car, final assembly would typically include, as a minimum, the following operations: installation and interconnection of propulsion control equipment, propulsion cooling equipment, brake equipment, energy sources for auxiliaries and controls, heating and air conditioning, communications equipment, motors, wheels and axles, suspensions and frames; the inspection and verification of all installation and interconnection work; and the in-plant testing of the stationary product to verify all functions.

(b) Buses: In the case of a new bus, final assembly would typically include, at a minimum, the installation and interconnection of the engine, transmission, axles, including the cooling and braking systems; the installation and interconnection of the heating and air conditioning equipment; the installation of pneumatic and electrical systems, door systems, passenger seats, passenger

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grab rails, destination signs, wheelchair lifts; and road testing, final inspection, repairs and preparation of the vehicles for delivery.

(c) If a manufacturer's final assembly processes do not include all the activities that are typically considered the minimum requirements, it can request a Federal Transit Administration (FTA) determination of compliance. FTA will review these requests on a case-by-case basis to determine compliance with Buy America.

[61 FR 6302, Feb. 16, 1996, as amended at 62 FR 40954, July 31, 1997; 72 FR 53697, Sept. 20, 2007; 72 FR 55103, Sept. 28, 2007; 74 FR 30239, June 25, 2009]

### § 661.12 Certification requirement for procurement of buses, other rolling stock and associated equipment.

If buses or other rolling stock (including train control, communication, and traction power equipment) are being procured, the appropriate certificate as set forth below shall be completed and submitted by each bidder in accordance with the requirement contained in § 661.13(b) of this part.

#### *Certificate of Compliance with Buy America Rolling Stock Requirements*

The bidder or offeror hereby certifies that it will comply with the requirements of 49 U.S.C. 5323(j), and the applicable regulations of 49 CFR 661.11.

Date \_\_\_\_\_  
Signature \_\_\_\_\_  
Company \_\_\_\_\_  
Name \_\_\_\_\_  
Title \_\_\_\_\_

#### *Certificate of Non-Compliance with Buy America Rolling Stock Requirements*

The bidder or offeror hereby certifies that it cannot comply with the requirements of 49 U.S.C. 5323(j), but may qualify for an exception to the requirement consistent with 49 U.S.C. 5323(j)(2)(C), and the applicable regulations in 49 CFR 661.7.

Date \_\_\_\_\_  
Signature \_\_\_\_\_  
Company \_\_\_\_\_  
Name \_\_\_\_\_  
Title \_\_\_\_\_

[71 FR 14117, Mar. 21, 2006, as amended at 72 FR 53698, Sept. 20, 2007; 74 FR 30239, June 25, 2009]

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**§ 661.13 Grantee responsibility.**

(a) The grantee shall adhere to the Buy America clause set forth in its grant contract with FTA.

(b) The grantee shall include in its bid or request for proposal (RFP) specification for procurement within the scope of this part an appropriate notice of the Buy America provision. Such specifications shall require, as a condition of responsiveness, that the bidder or offeror submit with the bid or offer a completed Buy America certificate in accordance with §§ 661.6 or 661.12 of this part, as appropriate.

(1) A bidder or offeror who has submitted an incomplete Buy America certificate or an incorrect certificate of noncompliance through inadvertent or clerical error (but not including failure to sign the certificate, submission of certificates of both compliance and non-compliance, or failure to submit any certification), may submit to the FTA Chief Counsel within ten (10) days of bid opening of submission or a final offer, a written explanation of the circumstances surrounding the submission of the incomplete or incorrect certification in accordance with 28 U.S.C. 1746, sworn under penalty of perjury, stating that the submission resulted from inadvertent or clerical error. The bidder or offeror will also submit evidence of intent, such as information about the origin of the product, invoices, or other working documents. The bidder or offeror will simultaneously send a copy of this information to the FTA grantee.

(i) The FTA Chief Counsel may request additional information from the bidder or offeror, if necessary. The grantee may not make a contract award until the FTA Chief Counsel issues his/her determination, except as provided in § 661.15(m).

(ii) [Reserved]

(2) For negotiated procurements, compliance with the Buy America requirements shall be determined on the basis of the certification submitted with the final offer or final revised proposal. However, where a grantee awards on the basis of initial proposals without discussion, the certification submitted with the initial proposal shall control.

(3) Certification based on ignorance of the proper application of the Buy America requirements is not an inadvertent or clerical error.

(c) Whether or not a bidder or offeror certifies that it will comply with the applicable requirement, such bidder or offeror is bound by its original certification (in the case of a sealed bidding procurement) or its certification submitted with its final offer (in the case of a negotiated procurement) and is not permitted to change its certification after bid opening or submission of a final offer. Where a bidder or offeror certifies that it will comply with the applicable Buy America requirements, the bidder, offeror, or grantee is not eligible for a waiver of those requirements.

[56 FR 932, Jan. 9, 1991, as amended at 68 FR 9799, Feb. 28, 2003; 71 FR 14117, Mar. 21, 2006]

**§ 661.15 Investigation procedures.**

(a) It is presumed that a bidder or offeror who has submitted the required Buy America certificate is complying with the Buy America provision. A false certification is a criminal act in violation of 18 U.S.C. 1001.

(b) Any party may petition FTA to investigate the compliance of a successful bidder or offeror with the bidder's or offeror's certification. That party ("the petitioner") must include in the petition a statement of the grounds of the petition and any supporting documentation. If FTA determines that the information presented in the petition indicates that the presumption in paragraph (a) of this section has been overcome, FTA will initiate an investigation.

(c) In appropriate circumstances, FTA may determine on its own to initiate an investigation without receiving a petition from a third party.

(d) When FTA determines under paragraph (b) or (c) of this section to conduct an investigation, it requests that the grantee require the successful bidder or offeror to document its compliance with its Buy America certificate. The successful bidder or offeror has the burden of proof to establish that it is in compliance. Documentation of compliance is based on the specific circumstances of each investigation, and

FTA will specify the documentation required in each case.

(e) The grantee shall reply to the request under paragraph (d) of this section within 15 working days of the request. The investigated party may correspond directly with FTA during the course of investigation, if it informs the grantee that it intends to do so, and if the grantee agrees to such action in writing. The grantee must inform FTA, in writing, that the investigated party will respond directly to FTA. An investigated party may provide confidential or proprietary information (see paragraph (l) of this section) directly to FTA while providing other information required to be submitted as part of the investigation through the grantee.

(f) Any additional information requested or required by FTA must be submitted within 5 working days after the receipt of such request unless specifically exempted by FTA.

(g) The grantee's reply (or that of the bidder or offeror) will be transmitted to the petitioner. The petitioner may submit comments on the reply to FTA within 10 working days after receipt of the reply. The grantee and the low bidder or offeror will be furnished with a copy of the petitioner's comments, and their comments must be received by FTA within 5 working days after receipt of the petitioner's comments.

(h) The failure of a party to comply with the time limits stated in this section may result in resolution of the investigation without consideration of untimely filed comments.

(i) During the course of an investigation, with appropriate notification to affected parties, FTA may conduct site visits of manufacturing facilities and final assembly locations as it considers appropriate.

(j) FTA will, upon request, make available to any interested party information bearing on the substance of the investigation which has been submitted by the petitioner, interested parties or grantees, except to the extent that withholding of information is permitted or required by law or regulation.

(k) If a party submitting information considers that the information submitted contains proprietary material

which should be withheld, a statement advising FTA of this fact may be included, and the alleged proprietary information must be identified wherever it appears. Any comments on the information provided shall be submitted within a maximum of ten days.

(l) For purposes of paragraph (j) of this section, confidential or proprietary material is any material or data whose disclosure could reasonably be expected to cause substantial competitive harm to the party claiming that the material is confidential or proprietary.

(m) When a petition for investigation has been filed before award, the grantee will not make an award before the resolution of the investigation, unless the grantee determines that:

(1) The items to be procured are urgently required;

(2) Delivery of performance will be unduly delayed by failure to make the award promptly; or

(3) Failure to make prompt award will otherwise cause undue harm to the grantee or the Federal Government.

(n) In the event that the grantee determines that the award is to be made during the pendency of an investigation, the grantee will notify FTA before to making such award. FTA reserves the right not to participate in the funding of any contract awarded during the pendency of an investigation.

(o) Initial decisions by FTA will be in written form. Reconsideration of an initial decision of FTA may be requested by any party involved in an investigation. FTA will only reconsider a decision only if the party requesting reconsideration submits new matters of fact or points of law that were not known or available to the party during the investigation. A request for reconsideration of a decision of FTA shall be filed not later than ten (10) working days after the initial written decision. A request for reconsideration will be subject to the procedures in this section consistent with the need for prompt resolution of the matter.

[56 FR 932, Jan. 9, 1991, as amended at 71 FR 14118, Mar. 21, 2006]

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**§ 661.17 Failure to comply with certification.**

If a successful bidder or offeror fails to demonstrate that it is in compliance with its certification, it will be required to take the necessary steps in order to achieve compliance. If a bidder or offeror takes these necessary steps, it will not be allowed to change its original bid price or the price of its final offer. If a bidder or offeror does not take the necessary steps, it will not be awarded the contract if the contract has not yet been awarded, and it is in breach of contract if a contract has been awarded.

[71 FR 14118, Mar. 21, 2006]

**§ 661.18 Intentional violations.**

A person shall be ineligible to receive any contract or subcontract made with funds authorized under the Federal Public Transportation Act of 2005 pursuant to part 29 of this title if it has been determined by a court or Federal agency that the person intentionally—

(a) Affixed a label bearing a “Made in America” inscription, or an inscription with the same meaning, to a product not made in the United States, but sold in or shipped to the United States and used in projects to which this section applies, or

(b) Otherwise represented that any such product was produced in the United States.

[61 FR 6303, Feb. 16, 1996, as amended at 72 FR 53698, Sept. 20, 2007]

**§ 661.19 Sanctions.**

A willful refusal to comply with a certification by a successful bidder or offeror may lead to the initiation of debarment or suspension proceedings under part 29 of this title.

[71 FR 14118, Mar. 21, 2006]

**§ 661.20 Rights of parties.**

(a) A party adversely affected by an FTA action under this subsection shall have the right to seek review under the Administrative Procedure Act (APA), 5 U.S.C. 702 *et seq.*

(b) Except as provided in paragraph (a) of this section, the sole right of any third party under the Buy America provision is to petition FTA under the

provisions of § 661.15 of this part. No third party has any additional right, at law or equity, for any remedy including, but not limited to, injunctions, damages, or cancellation of the Federal grant or contracts of the grantee.

[71 FR 14118, Mar. 21, 2006]

**§ 661.21 State Buy America provisions.**

(a) Except as provided in paragraph (b) of this section, any State may impose more stringent Buy America or buy national requirements than contained in section 165 of the Act and the regulations in this part.

(b) FTA will not participate in contracts governed by the following:

(1) State Buy America or Buy National preference provisions which are not as strict as the Federal requirements.

(2) State and local Buy National or Buy America preference provisions which are not explicitly set out under State law. For example, administrative interpretations of non-specific State legislation will not control.

(3) State and local Buy Local preference provisions.

**PART 663—PRE-AWARD AND POST-DELIVERY AUDITS OF ROLLING STOCK PURCHASES**

**Subpart A—General**

Sec.

- 663.1 Purpose.
- 663.3 Scope.
- 663.5 Definitions.
- 663.7 Certification of compliance to FTA.
- 663.9 Audit limitations.
- 663.11 Audit financing.
- 663.13 Buy America requirements.
- 663.15 Compliance.

**Subpart B—Pre-Award Audits**

- 663.21 Pre-award audit requirements.
- 663.23 Description of pre-award audit.
- 663.25 Pre-award Buy America certification.
- 663.27 Pre-award purchaser's requirements certification.

**Subpart C—Post-Delivery Audits**

- 663.31 Post-delivery audit requirements.
- 663.33 Description of post-delivery audit.
- 663.35 Post-delivery Buy America certification.
- 663.37 Post-delivery purchaser's requirements certification.



# APPENDIX 5

## § 663.1

663.39 Post-delivery audit review.

### Subpart D—Certification of Compliance With or Inapplicability of Federal Motor Vehicle Safety Standards

663.41 Certification of compliance with Federal motor vehicle safety standards.

663.43 Certification that Federal motor vehicle standards do not apply.

AUTHORITY: 49 U.S.C. 1608(j); 23 U.S.C. 103(e)(f); Pub. L. 96-184, 93 Stat. 1320; Pub. L. 101-551, 104 Stat. 2733; sec. 3023(m), Pub. L. 109-59; 49 CFR 1.51.

SOURCE: 56 FR 48395, Sept. 24, 1991, unless otherwise noted.

### Subpart A—General

#### § 663.1 Purpose.

This part implements section 12(j) of the Federal Mass Transit Act of 1964, as amended, which was added by section 319 of the 1987 Surface Transportation and Uniform Relocation Assistance Act (Pub. L. 100-17). Section 12(j) requires the Federal Transit Administration, by delegation from the Secretary of Transportation, to issue regulations requiring pre-award and post-delivery audits when a recipient of Federal financial assistance purchases rolling stock with funds made available under the Federal Mass Transit Act, as amended.

#### § 663.3 Scope.

This part applies to a recipient purchasing rolling stock to carry passengers in revenue service with funds made available under sections 3, 9, 18, and 16(b)(2) of the Federal Mass Transit Act, as amended; 23 U.S.C. 103(e)(4); and section 14 of the National Capital Transportation Act of 1969, as amended.

#### § 663.5 Definitions.

As used in this part—

(a) *Pre-award* means that period in the procurement process before the recipient enters into a formal contract with the supplier.

(b) *Post-delivery* means the time period in the procurement process from when the rolling stock is delivered to the recipient until title to the rolling stock is transferred to the recipient or the rolling stock is put into revenue service, whichever is first.

## 49 CFR Ch. VI (10-1-11 Edition)

(c) *Recipient* means a recipient of Federal financial assistance from FTA.

(d) *Revenue service* means operation of rolling stock for transportation of fare-paying passengers as anticipated by the recipient.

(e) *Rolling stock* means buses, vans, cars, railcars, locomotives, trolley cars and buses, ferry boats, and vehicles used for guideways and incline planes.

(f) *Audit* means a review resulting in a report containing the necessary certifications of compliance with Buy America standards, purchaser's requirements specifications, and, where appropriate, a manufacturer's certification of compliance with or inapplicability of the Federal Motor Vehicle Safety Standards, required by section 319 of STURAA and this part.

(g) *FTA* means the Federal Transit Administration.

#### § 663.7 Certification of compliance to FTA.

A recipient purchasing revenue service rolling stock with funds obligated by FTA on or after October 24, 1991, must certify to FTA that it will conduct or cause to be conducted pre-award and post-delivery audits as prescribed in this part. In addition, such a recipient must maintain on file the certifications required under subparts B, C, and D of this part.

#### § 663.9 Audit limitations.

(a) An audit under this part is limited to verifying compliance with

(1) Applicable Buy America requirements [section 165 of the Surface Transportation Assistance Act of 1982, as amended,]; and

(2) Solicitation specification requirements of the recipient.

(b) An audit under this part includes, where appropriate, a copy of a manufacturer's self certification information that the vehicle complies with Federal Motor Vehicle Safety Standards or a certification that such standards are inapplicable.

(c) An audit conducted under this part is separate from the single annual audit requirement established by Office of Management and Budget Circular A-128, "Audits of State and Local Governments," dated May 16, 1985.

**Federal Transit Admin., DOT**

**§ 663.31**

**§ 663.11 Audit financing.**

A recipient purchasing revenue rolling stock with FTA funds may charge the cost of activities required by this part to the grant which FTA made for such purchase.

**§ 663.13 Buy America requirements.**

A Buy America certification under this part shall be issued in addition to any certification which may be required by part 661 of this title. Nothing in this part precludes FTA from conducting a Buy America investigation under part 661 of this title.

**§ 663.15 Compliance.**

A recipient subject to this part shall comply with all applicable requirements of this part. Such compliance is a condition of receiving Federal financial assistance from FTA. A recipient determined not to be in compliance with this part will be subject to the immediate suspension, withholding, or repayment of Federal financial assistance from FTA or other appropriate actions unless and until it comes into compliance with this part.

**Subpart B—Pre-Award Audits**

**§ 663.21 Pre-award audit requirements.**

A recipient purchasing revenue service rolling stock with FTA funds must ensure that a pre-award audit under this part is complete before the recipient enters into a formal contract for the purchase of such rolling stock.

**§ 663.23 Description of pre-award audit.**

A pre-award audit under this part includes—

- (a) A Buy America certification as described in § 663.25 of this part;
- (b) A purchaser's requirements certification as described in § 663.27 of this part; and
- (c) Where appropriate, a manufacturer's Federal Motor Vehicle Safety certification information as described in § 663.41 or § 663.43 of this part.

**§ 663.25 Pre-award Buy America certification.**

For purposes of this part, a pre-award Buy America certification is a certification that the recipient keeps on file that—

(a) There is a letter from FTA which grants a waiver to the rolling stock to be purchased from the Buy America requirements under section 165(b)(1), (b)(2), or (b)(4) of the Surface Transportation Assistance Act of 1982, as amended; or

(b) The recipient is satisfied that the rolling stock to be purchased meets the requirements of section 165(a) or (b)(3) of the Surface Transportation Assistance Act of 1982, as amended, after having reviewed itself or through an audit prepared by someone other than the manufacturer or its agent documentation provided by the manufacturer which lists—

(1) Component and subcomponent parts of the rolling stock to be purchased identified by manufacturer of the parts, their country of origin and costs; and

(2) The location of the final assembly point for the rolling stock, including a description of the activities that will take place at the final assembly point and the cost of final assembly.

**§ 663.27 Pre-award purchaser's requirements certification.**

For purposes of this part, a pre-award purchaser's requirements certification is a certification a recipient keeps on file that—

(a) The rolling stock the recipient is contracting for is the same product described in the purchaser's solicitation specification; and

(b) The proposed manufacturer is a responsible manufacturer with the capability to produce a vehicle that meets the recipient's specification set forth in the recipient's solicitation.

**Subpart C—Post-Delivery Audits**

**§ 663.31 Post-delivery audit requirements.**

A recipient purchasing revenue service rolling stock with FTA funds must ensure that a post-delivery audit under this part is complete before title to the

### **§ 663.33**

rolling stock is transferred to the recipient.

#### **§ 663.33 Description of post-delivery audit.**

A post-delivery audit under this part includes—

(a) A post-delivery Buy America certification as described in § 663.35 of this part;

(b) A post-delivery purchaser's requirements certification as described in § 663.37 of this part; and

(c) When appropriate, a manufacturer's Federal Motor Vehicle Safety Standard self-certification information as described in § 663.41 or § 663.43 of this part.

#### **§ 663.35 Post-delivery Buy America certification.**

For purposes of this part, a post-delivery Buy America certification is a certification that the recipient keeps on file that—

(a) There is a letter from FTA which grants a waiver to the rolling stock received from the Buy America requirements under sections 165 (b)(1), or (b)(4) of the Surface Transportation Assistance Act of 1982, as amended; or

(b) The recipient is satisfied that the rolling stock received meets the requirements of section 165 (a) or (b)(3) of the Surface Transportation Assistance Act of 1982, as amended, after having reviewed itself or by means of an audit prepared by someone other than the manufacturer or its agent documentation provided by the manufacturer which lists—

(1) Components and subcomponent parts of the rolling stock identified by manufacturer of the parts, their country of origin and costs; and

(2) The actual location of the final assembly point for the rolling stock including a description of the activities which took place at the final assembly point and the cost of the final assembly.

#### **§ 663.37 Post-delivery purchaser's requirements certification.**

For purposes of this part, a post-delivery purchaser's requirements certification is a certification that the recipient keeps on file that—

### **49 CFR Ch. VI (10–1–11 Edition)**

(a) Except for procurements covered under paragraph (c) in this section, a resident inspector (other than an agent or employee of the manufacturer) was at the manufacturing site throughout the period of manufacture of the rolling stock to be purchased and monitored and completed a report on the manufacture of such rolling stock. Such a report, at a minimum, shall—

(1) Provide accurate records of all vehicle construction activities; and

(2) Address how the construction and operation of the vehicles fulfills the contract specifications.

(b) After reviewing the report required under paragraph (a) of this section, and visually inspecting and road testing the delivered vehicles, the vehicles meet the contract specifications.

(c) For procurements of:

(1) Ten or fewer buses; or

(2) Procurements of twenty vehicles or fewer serving rural (other than urbanized) areas, or urbanized areas of 200,000 people or fewer; or

(3) Any number of primary manufacturer standard production and unmodified vans, after visually inspecting and road testing the vehicles, the vehicles meet the contract specifications.

[56 FR 48395, Sept. 24, 1991, as amended at 71 FR 14118, Mar. 21, 2006]

#### **§ 663.39 Post-delivery audit review.**

(a) If a recipient cannot complete a post-delivery audit because the recipient or its agent cannot certify Buy America compliance or that the rolling stock meets the purchaser's requirements specified in the contract, the rolling stock may be rejected and final acceptance by the recipient will not be required. The recipient may exercise any legal rights it has under the contract or at law.

(b) This provision does not preclude the recipient and manufacturer from agreeing to a conditional acceptance of rolling stock pending manufacturer's correction of deviations within a reasonable period of time.

# APPENDIX 6



ROCKY MOUNTAIN STEEL  
A DIVISION OF EVRAZ INC. NA

Rail Test Report

Printed: 30-OCT-12

Heat: 556225

Page: 1

Length: 80

Specification:

AREMA SPECIFICATION

Section: 115 Type Steel: Head Hardened

Length Rolled: 80

Hydrogen Removal: Vacuum Degassed

Rails supplied on this order have been fully ultrasonically tested and found to be in conformance with the specification to which it was supplied.  
All microcleanliness ratings meet customer requirements.

Chemical Analysis (%)

C	Mn	P	S	Si	Cu	Ni	Cr	Mo	Al	Cb	V	Sn
.84	0.99	.011	.010	.30	.22	.07	.24	.018	.003	.000	.000	.012

Etch Tests by Strand No.

	1	2	3	4	5	6
	Rating	Rating	Rating	Rating	Rating	Rating
Front	OK	OK	OK	OK	OK	OK
Transition						
Last						

Brinell Surface Hardness = 401

Tensile Bar Properties

Yield Strength (PSI)	UTS (PSI)	% Elongation
132000	197600	11.4

Hardness at Depth - Head Hardened

Position Number	1	2	3	4a	4b	5a	5b
Rockwell C (RC)	39.6	39.3	41.1	39.8	41.0	39.1	40.3
AREMA BHN Conversion	381	379	394	383	393	377	387

1, 2, 3 - 15.24 mm depth - respectively West Gage Corner, Centerline, East Gage Corner

4a, 4b - 9.5 mm depth - respectively West Side Head, East Side Head

5a, 5b - 9.5 mm depth - respectively West Fishing Corner, East Fishing Corner

ALL MELTING AND MANUFACTURING PROCESSES OF THE MATERIAL SUBJECT TO THIS TEST CERTIFICATE OCCURRED IN THE UNITED STATES OF AMERICA.

This is to certify that the material subject to this Certificate of Inspection and Notice of Limited Warranty was manufactured in accordance with and conforms to the specifications designated on the order. NO WARRANTY IS EXPRESSED OR IMPLIED other than those set forth above. In particular, Evraz Rocky Mountain Steel specifically disclaims any implied warranty of merchantability or fitness for intended purpose.

Correct

Quality Assurance Department

205856-HART

Customer Order Number



ROCKY MOUNTAIN STEEL  
A DIVISION OF EVRAZ INC. NA

**Rail Test Report**

Printed: 26-SEP-12

Heat: 555396  
Page: 1  
Length: 80

**Specification:**

**AREMA SPECIFICATION**

Section: 115 Type Steel: Head Hardened

Length Rolled: 80

Hydrogen Removal: Vacuum Degassed

Rails supplied on this order have been fully ultrasonically tested and found to be in conformance with the specification to which it was supplied.  
All microcleanliness ratings meet customer requirements.

**Chemical Analysis (%)**

C	Mn	P	S	Si	Cu	Ni	Cr	Mo	Al	Ca	V	Sn
.83	0.99	.008	.008	.30	.21	.10	.23	.019	.002	.000	.000	.011

**Etch Tests by Strand No.**

	1	2	3	4	5	6
	Rating	Rating	Rating	Rating	Rating	Rating
Front	OK	OK	OK	OK	OK	OK
Transition						
Last						

Brinell Surface Hardness = 375

**Tensile Bar Properties**

Yield Strength (PSI)  
131600

UTS (PSI)  
191800

% Elongation  
12.9

**Hardness at Depth - Head Hardened**

Position Number	1	2	3	4a	4b	5a	5b
Rockwell C (RC)	39.1	38.8	39.9	38.9	39.3	39.9	37.9
AREMA BHN Conversion	377	374	384	375	379	384	367

- 1, 2, 3 - 15.24 mm depth - respectively West Gage Corner, Centerline, East Gage Corner  
4a, 4b - 9.5 mm depth - respectively West Side Head, East Side Head  
5a, 5b - 9.5 mm depth - respectively West Fishing Corner, East Fishing Corner

ALL MELTING AND MANUFACTURING PROCESSES OF THE MATERIAL SUBJECT TO THIS TEST CERTIFICATE OCCURRED IN THE UNITED STATES OF AMERICA.

This is to certify that the material subject to this Certificate of Inspection and Notice of Limited Warranty was manufactured in accordance with and conforms to the specifications designated on the order. NO WARRANTY IS EXPRESSED OR IMPLIED other than those set forth above. In particular, Evraz Rocky Mountain Steel specifically disclaims any implied warranty of merchantability or fitness for intended purpose.

Correct

Quality Assurance Department

205203-HART

Customer Order Number



**CASCADE  
STEEL**  
Rolling Mills Inc.

**CERTIFIED MILL TEST REPORT**  
(CMTR)  
3200 NORTH HIGHWAY 99W  
McMINNVILLE, OREGON 97128  
(503) 472-4181 FAX (503) 434-5739

**CUSTOMER** ASSOCIATED STEEL WORKERS LTD, INC.  
Aiea Hawaii  
C/O Sause - Teevin Brothers  
29191 Dike Road  
Rainer, OR 97048

DATE 2-28-12

BILL OF LADING 10585040

PAGE 1 OF 1

DESCRIPTION			TEST NAME / UNIT OF MEASURE									
HEAT NO. / PRODUCT / GRADE	YIELD MPA	TENSILE MPA	ELONG. % 200mm	NOM. WT %	BEND DEGREES	DEF. status						
*067112 25MM (#8) REBAR 706/615 GRADE ASTM A706-09 A615-09/60 AASHTO M31-07	465 67.5 KSI	645 93.5 KSI	21	96	180 OK	OK						
*067012 25MM (#8) REBAR 706/615 GRADE ASTM A706-09 A615-09/60 AASHTO M31-07	473 68.5 KSI	650 94.5 KSI	20	96	180 OK	OK						
I, THOMAS E. MURPHY, CERTIFY THAT THE PRODUCT SHOWN ON THIS DOCUMENT IS IN COMPLIANCE WITH STATE SPECIFICATIONS.												
<div>Thomas E. Murphy</div> THOMAS E. MURPHY, CUSTOMER TECHNICAL SERVICES MANAGER, CASCADE STEEL ROLLING MILLS, INC.												
ON THIS 12 DAY OF MARCH 2012, BEFORE ME PERSONALLY APPEARED THOMAS E. MURPHY PERSONALLY KNOWN TO ME TO BE THE PERSON WHOSE NAME IS SUBSCRIBED TO THIS INSTRUMENT, AND ACKNOWLEDGED THAT HE EXECUTED THE SAME.												



**CASCADE  
STEEL**  
Rolling Mills Inc.

# CERTIFIED MILL TEST REPORT

3200 NORTH HIGHWAY 99W

McMINNVILLE, OREGON 97128

(503) 472-4181 FAX (503) 434-5739

DATE \_\_\_\_\_

9-05-12

BILL OF LADING	10622400
----------------	----------

PAGE 1 OF 1

[illegible]

PO NUMBER(S) : 4500312104

\* ALL MELTING AND MANUFACTURING PROCESSES FOR THE MATERIALS OCCURRED IN THE UNITED STATES.

Customer Technical Service Manager  
TOM MURPHY

F013-S.11

# APPENDIX 7



## **NONCOMPLIANCE REPORT**

Report No. \_\_\_\_\_

Date: \_\_\_\_\_

Contract No.

Specification No.

Rev.

Contract Name:

Item Identification:

Description of Noncompliance:

Recommended Disposition:

☐ **REPLACE**

☐ **OTHER:**

☐ **SCRAP**

☐ **RETURN TO VENDOR**

Justification of Disposition:

Noncompliance Report Prepared by:

Name:

Date:

**Corrective Action to Prevent Recurrence:**

**Corrective Action Prepared by:**

Name:

Title:

Date:

**HART Approval of Corrective Action and Close-out of Noncompliance Report:**

Inspector/Lead Auditor

Date:

Buy America Compliance Officer

Date:

# APPENDIX 8



**YEAR:** **XXXX**

NCR LOG: XXXX  
Revised 07/23/12

# APPENDIX 9



HONOLULU AUTHORITY for RAPID TRANSPORTATION

Kenneth Toru Hamayasu, P.E.  
INTERIM EXECUTIVE DIRECTOR

## Pre-Award Buy America Compliance Certification

As required by Title 49 of the CFR, Part 663 – Subpart B, **Honolulu Authority for Rapid Transportation (HART)**, a semi-autonomous agency of the City and County of Honolulu (the recipient) is satisfied that the rail vehicles to be purchased, 80 (40 Two-Car Consist) Driverless Rail Vehicles (number and description of rail vehicle) from **Ansaldo Honolulu Joint Venture** (the manufacturer), meet the requirements of Section 165(b)(3) of the Surface Transportation Assistance Act of 1982, as amended. The recipient and its appointed analyst, **HART Buy America Audit Team** (the analyst – not the manufacturer or its agent), has reviewed documentation provided by the manufacturer, which lists (1) the proposed component and subcomponent parts of the rail vehicles identified by the manufacturer, country of origin, and cost; and (2) the proposed location of the final assembly point for the rail vehicles, including a description of the activities that will take place at the final assembly point and the cost of final assembly.

Date: October 17, 2011

Signature: \_\_\_\_\_  
Alberto Bonifacio

Title: Pre-Award Audit Team Leader



HONOLULU AUTHORITY for RAPID TRANSPORTATION

Kenneth Toru Hamayasu, P.E.  
INTERIM EXECUTIVE DIRECTOR

## Pre-Award Purchaser's Requirements Certification

As required by Title 49 of the CFR, Part 663 – Subpart B, **Honolulu Authority for Rapid Transportation (HART)**, a semi-autonomous agency of the City and County of Honolulu (the recipient) certifies that the rail vehicles to be purchased, 80 (40 Two-Car Consist) Driverless Rail Vehicles (number and description of rail vehicle) from **Ansaldo Honolulu Joint Venture** (the manufacturer), are the same product described in the recipient's solicitation specification and that the proposed manufacturer is a responsible manufacturer with the capability to produce a Rail Vehicle that meets the specifications.

Date: October 17, 2011

Signature: \_\_\_\_\_  
Alberto Bonifacio

Title: Pre-Award Audit Team Leader





HONOLULU AUTHORITY for RAPID TRANSPORTATION

Kenneth Toru Hamayasu, P.E.  
INTERIM EXECUTIVE DIRECTOR

## Post-Delivery Buy America Compliance Certification

As required by Title 49 of the CFR, Part 663 – Subpart C, **Honolulu Authority for Rapid Transportation (HART)**, a semi-autonomous agency of the City and County of Honolulu (the recipient) certifies that it is satisfied that the vehicles received, \_\_\_\_\_

\_\_\_\_\_ (number and description of rail vehicles) from **Ansaldo Honolulu Joint Venture** (the manufacturer) meets the requirements of Section 165(b)(3) of the Surface Transportation Assistance Act of 1982, as amended. The recipient, HART analyst \_\_\_\_\_ (the analyst – not the manufacturer or its agent), has reviewed documentation provided by manufacturer, which list: (1) the actual component and subcomponent parts of the rail vehicles identified by the manufacturer, country of origin, and cost; and (2) the actual location of the final assembly point for the rail vehicles, including a description of the activities that took place at the final assembly point and the cost of the final assembly.

Date: \_\_\_\_\_

Signature: \_\_\_\_\_  
Alberto Bonifacio

Title: Buy America Compliance Officer



HONOLULU AUTHORITY for RAPID TRANSPORTATION

Kenneth Toru Hamayasu, P.E.  
INTERIM EXECUTIVE DIRECTOR

## Post-Delivery Purchaser's Requirements Certification

As required by Title 49 of the CFR, Part 663 – Subpart C, **Honolulu Authority for Rapid Transportation (HART)**, a semi-autonomous agency of the City and County of Honolulu (the recipient) certifies that a Resident Inspector, \_\_\_\_\_ (the Resident Inspector-not an agent or employee of the manufacturer), was at **Ansaldo Breda's** (the manufacturer) manufacturing site during the manufacture of the rail vehicles, \_\_\_\_\_ (number and description of rail vehicles). The inspector monitored manufacturing and completed a report on the manufacture of the rail vehicles providing accurate records of all vehicle construction activities. The report addresses how the construction and operation of the rail vehicles fulfill the contract specifications. After reviewing the report, visually inspecting the rail vehicles, and performance testing the rail vehicles, the recipient certifies that the rail vehicles meet the contract specifications.

Date: \_\_\_\_\_

Signature: \_\_\_\_\_  
Alberto Bonifacio

Title: Buy America Compliance Officer

**EXHIBIT 7a**

**CERTIFICATE OF COMPLIANCE WITH  
BUY AMERICA REQUIREMENTS**

- |   |   |
|---|---|
| <input checked="" type="checkbox"/> Prototype Vehicles    | <input checked="" type="checkbox"/> Traction Electrification System |
| <input checked="" type="checkbox"/> Passenger Vehicles    | <input checked="" type="checkbox"/> Train Control System            |
| <input checked="" type="checkbox"/> Fare Vending System   | <input checked="" type="checkbox"/> Balance of Core Systems Work    |
| <input checked="" type="checkbox"/> Communication Systems |   |

The Offeror hereby certifies that it will comply with the requirements of 49 U.S.C. Section 5323(j)(1), and the applicable regulations in 49 C.F.R. Part 661. Identify the Subsystem that complies by checking the appropriate boxes above and fill out the balance of the form.

Date: January 12, 2011

Signature: 

Offeror: Ansaldo Honolulu JV, formed by and between AnsaldoSTS S.p.A. (leader) and AnsaldoBreda S.p.A. (member)

Name: Enrico Fontana

Title: Attorney-In-Fact

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Core Systems DBOM Contract

# APPENDIX 10

**HONOLULU AUTHORITY FOR RAPID TRANSPORTATION**



**HONOLULU AUTHORITY for RAPID TRANSPORTATION**

**BUY AMERICA AUDITS PROCEDURE**

**BAP-19 REV 0**

**DECEMBER 12, 2012**

**Approved by:**

  
\_\_\_\_\_  
Signature

  
\_\_\_\_\_  
Date

**Buy America Compliance Officer**  
Title

### **1.0 PURPOSE:**

This procedure describes how Buy America (BA) audits are planned, scheduled and performed to: verify compliance with the Buy America Compliance Program Plan (BACPP) and contract requirements; determine its effectiveness; and identify opportunities for improvements.

### **2.0 SCOPE:**

**2.1** This procedure shall apply to all internal and external audits performed by HART. Audits shall be planned, scheduled and performed to verify compliance with the organizations' established BA compliance and contract requirements.

**2.2** All audits shall be performed by qualified auditors who are certified by HART or an organization competent and recognized in the industry to certify quality and systems auditors. The auditor's records and certification shall be maintained by the HART Director of Quality Assurance and Quality Control (DQA/QC). Auditors shall not have direct responsibility for performing the activities being audited.

### **3.0 DEFINITIONS:**

Refer to Glossary and Acronyms of the HART BACPP.

### **4.0 RESPONSIBILITY:**

**BACO** The BACO is responsible for planning, scheduling and performance of BA Audits.

### **5.0 PROCEDURE:**

#### **5.1 Audit Planning**

**5.1.1** The BACO shall schedule the audits to be performed. The BACO shall assign the Auditor or an Audit Team to perform the audit. The Auditors shall be qualified and certified to perform quality and systems audits. The Auditor(s) shall not have direct responsibility for performing the activities being audited.

**5.1.2** A Lead Auditor or an Audit Team Leader shall be appointed when the audit will be performed by two or more Auditors. The Lead Auditor's responsibilities include: orientation of the Audit Team, coordination of the audit process, establishing the pace of the audit, assuring communications within the team and the organization being audited, participation in the audit and coordination of the preparation and issuance of the reports.

**5.1.3** The Auditor or Audit Team Leader shall officially notify the organization of the area to be audited prior to the audit. The notification shall include when the audit will be held and the scope of the audit.

**5.1.4** Unannounced audits may be performed when an area or activity is suspected to be deficient and/or ineffective.

- 5.1.5 Audits shall be performed using a BA Checklist (**Exhibit A**) prepared by the Auditor or the Audit Team. The Audit Checklist shall be reviewed and approved by the BACO.

### 5.2 Audit Procedure

- 5.2.1 Entrance Meeting: A brief meeting prior to the audit shall be conducted with the cognizant management of the organization being audited. The purpose of the meeting is to: outline the scope of the audit, present the audit plan, introduction of attendees, discuss audit sequence, and establish a channel of communication
- 5.2.2 Audit Performance: Selected elements of the BACPP shall be audited to the depth necessary to determine whether or not they are implemented effectively. Objective evidence shall be examined by the Auditor(s) to verify compliance with the BACPP, Purchase Orders, and Contract requirements. Full cooperation of the organization being audited shall be extended to the auditor(s). An escort shall be provided to the Auditors by the organization being audited to introduce the Auditors to the workers and witness the conduct of the audit.
- 5.2.3 Findings: When a noncompliance or system deficiency is found or identified as a result of the audit, further investigation shall be conducted by the audited organization in order to identify the root cause and effect of the noncompliance, and to determine the extent of the corrective action required. All findings shall be acknowledged by the audited organization.
- 5.2.4 Corrective Actions: Conditions found requiring immediate corrective actions shall be reported at once to the management of the audited organization. Specific attention shall also be given to corrective action on deficiencies identified during the audit and previous audits.
- 5.2.5 Exit Meeting: At the conclusion of the audit process, an exit meeting shall be held with the cognizant management of the audited organization to present the audit results and reach an agreement of the results.

### 5.3 Audit Results

- 5.3.1 The Auditor or the Audit Team Leader shall prepare an Audit Report, which the audit observations and findings are documented. The Audit Report will be submitted to the BACO for evaluation and approval and then forwarded to the Manager/Director of the organization audited for information and corrective action, as required.
- 5.3.2 Corrective actions shall be required for all reported deficiencies in accordance with Section 10.0, CORRECTIVE ACTIONS of the BACPP. Any noncompliance that cannot be concluded by the BACO and the organization being audited shall be elevated to the HART Executive Director and CEO for resolution.

# HONOLULU RAIL TRANSIT PROJECT

## BUY AMERICA AUDITS PROCEDURE

BAP-19, REV. 0, 12-12-12

- 5.3.3 Audit records shall be maintained by the BACO. The BACO shall analyze audit data and reports to determine the trends and overall effectiveness of the BACPP. The results shall be reviewed with the Executive Director and CEO at the annual management review.

## 6.0 REFERENCES

Section 11.0 Audits of HART BACPP


## 7.0 Exhibits

1. Exhibit A – Audit Checklist

CHANGE HISTORY		
Revision Level	Effective Date	Description of Change
0	12/ 12/12	First Issue



Exhibit A – Audit Checklist (1 of 4)

		<p align="center"><b><u>AUDIT CHECKLIST</u></b></p>		
<input type="checkbox"/> <b>External Audit</b> <b>Audited Organization:</b>		<b>Audit Number:</b>		<b>Audit Date:</b>
<input type="checkbox"/> <b>Internal Audit</b> <b>Audit Location:</b>				
<b>Contract/Project:</b>				
<b>Applicable Documents/Requirements:</b> BUY AMERICA (49 CFR 661 & 49 CFR 663)				
<b>Audit Team Organization(s):</b>				
<b>Lead Auditor:</b>				
<b>Auditor(s):</b>				
<b>Auditors</b>	<b>Questions</b>	<b>References</b>	<b>Compliance</b>	<b>POS NCR OBS SUG</b>
	<b>Question No. 1</b>  Has the HART, Contractor, Consultant, or Supplier included a Buy America provisions for all procurement of steel, iron and manufactured products, except with a waiver or small purchase of \$100K?	49 CFR 661.6 49 CFR 661.13  Section 5 BACPP		
	<b>Question No. 2</b>  Has the HART, Contractor, Consultant, or Supplier obtained and retained Buy America certifications from approved Vendors for purchases of more than \$100K?	49 CFR 661.6 49 CFR 661.13  Section 5 BACPP		
	<b>Question No. 3</b>  Did HART conduct a pre-award and post-delivery audits for its purchases of rolling stock over \$100K?	49 CFR 661.11 Appendix C  Section 6 BACPP		

BA Audit Checklist  
Rev. 0- 12/12/12

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### Exhibit A – Audit Checklist (2 of 4)

Auditors	Questions	References	Compliance	POS NCR OBS SUG
	<b>Question No. 4</b>  Does HART have properly completed pre-award and post-delivery certifications and kept in contract files?	49 CFR 663.21 49 CFR 663.31  Section 12 BACPP		
	<b>Question No. 5</b>  If HART purchases rolling stock with multiple delivery dates using either options or multi-year procurements, has HART performed and certified a pre-award and post-delivery audit for each group of vehicles before placing them into service?	49 CFR 663.21 49 CFR 663.31  Section 6 BACPP		
	<b>Question No. 6 –</b>  What process did HART use to verify the domestic content of the vehicle, its components, and its subcomponents prior to awarding the contract?	49 CFR 661.11 Appendix C 49 CFR 663.9 49 CFR 663.25  Section 6 BACPP		
	<b>Question No. 7</b>  If required, did HART use in-plant inspectors during the manufacturing process?	49 CFR 663.37 (a) and (c)  Section 6 BACPP		

**Exhibit A – Audit Checklist (3 of 4)**

Auditors	Questions	References	Compliance	POS NCR OBS SUG
	<b>Question No. 8</b>  Does HART have a description of the manufacturing activities taking place during the final assembly of vehicles and for vehicles that were partially manufactured outside the United States, did the final assembly meet FTA requirements?	49 CFR 661.11 (a) and (t)  Section 6 BACPP		
	<b>Question No. 9</b>  Does the Contractor, Consultant, or Supplier Approved Vendors List approved by HART?	Section 7 BACPP		
	<b>Question No. 10</b>  Does the Contractor, Consultant, or Supplier perform audits of subcontractors and suppliers?  <b>Steel Iron Manufactured Products</b>	Section 11 BACPP		
	<b>Question No. 11</b>  Does the Contractor, Consultant, or Supplier verify TRACEABILITY of Steel, Iron and Manufactured Products prior to incorporation into the final product?	Section 7 BACPP		

# HONOLULU RAIL TRANSIT PROJECT

## BUY AMERICA AUDITS PROCEDURE

BAP-19, REV. 0, 12-12-12

### Exhibit A – Audit Checklist (4 of 4)

Auditors	Questions	References	Compliance	POS NCR OBS SUG
	Question No. 12  OPEN			
	Question No. 13  OPEN			
	Question No. 14  OPEN			
	Question No. 15  OPEN			

BA Audit Checklist  
Rev. 0- 12/12/12

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# APPENDIX 11



HONOLULU AUTHORITY for RAPID TRANSPORTATION

## HART TRAINING PROCEDURE

**2. PA-07-REV. 1.0 - APRIL 19, 2012**

CHANGE HISTORY		
Revision Level	Effective Date	Description of Change
0	05/26/11	Accepted by PMOC
1	04/19/12	Accepted by FFGA

These Policies and Procedures may be revised upon request as directed to HART, and as approved by the Executive Director.  
A. Bonifacio is the owner of this procedure and responsible for its content and revision.

Approved by:

Dan Grabauskas  
Hart Executive Director and CEO

5/2/12

Date

# HONOLULU RAIL TRANSIT PROJECT

## HART TRAINING PROCEDURE

2.PA-07-REV 1.0, 04-19-12

### 1.0 **PURPOSE:**

This procedure is established to assure that: training of appropriate Project personnel are scheduled and performed;

- suitable knowledge,
- proficiencies,
- qualifications,
- certifications are achieved and maintained; and
- Trainings are properly documented.

### 2.0 **SCOPE:**

All personnel whose duties will affect the effective and efficient management and execution of the Project are trained to the extent necessary by their respective, deputy officer, manager, supervisor and or qualified trainer to assure that the employees have a working knowledge of the project plans, programs and procedures; and that the employees are committed to implement them. The lists of personnel are identified in the Training Matrix, which also shows the project plans, programs and procedures to be implemented.

### 3.0 **DEFINITIONS:**

Refer to Procedure 1.PP-03, "Standard Terms, Definitions, and Acronyms." For HART training procedure related terms and abbreviations, include the following:

### 4.0 **RESPONSIBILITY:**

The General Manager (GM), Chief Project Officer (CPO), Deputy Project Officer, Administration and Controls (DAC), Deputy Project Officer, Engineering and Construction (DEC), Quality Assurance (QA) Manager, System Safety and Security (SS&S) Manager and their direct reports shall be responsible for the proficiencies, qualifications and certifications needed of subordinates in their respective organizations.

Seminars and training courses offered by schools, professional organizations, suppliers, manufacturers, and other educational institutions may be utilized to train personnel in the tools and techniques necessary to perform their jobs safely, efficiently and effectively.

#### **Administrative Services Officer**

The Training Matrix shall be made accessible to the Administrative Services Officer (ASO), who reports to the DAC and responsible for Human Relations and Office Management, to assure proficiencies of appropriate personnel.

#### **Document Control Staff**

Maintain training records in the HART Library.



### QA Manager

The QA Manager shall perform QA oversight and audits of HART training procedure, including the Training Matrix and its implementation.

### 5.0 PROCEDURES:

- 5.1 Before starting any specific work related duties, the employee(s) should be familiar with all work related systems and documents. These documents include selected courses, plans, procedures, work instructions, applicable manuals and regulations. The GM, CPO, DAC, DEC, QA Manager, SS&S Manager shall be responsible to determine and approve who and what training will be required in their respective organization.
- 5.2 Training requirements and approval are shown and documented on the basis of the position description of duties and responsibilities and recorded in the Training Matrix by assigning a color coded box on the Training Matrix.
- 5.3 Upon completion of training, the Training Matrix will be updated by the ASO or designee indicating an "X" on the assigned boxes. Training documentation (attendance sheets, test records [if any], training materials, etc.) shall be submitted by the Document Control Manager or designee for entry into Contract Management System (CMS) Training Module, with the hard copies maintained in the HART Library.
- 5.4 Additional selected Courses, if required by the responsible Officer or Manager, shall request the CPO approval via e-mail, and set-up by the ASO as follows:
  - Procurement of Training Course/Materials;
  - Establishment of Training Schedule (Date, Time and Venue);
  - Notification of Attendees;
  - Monitor Training including Attendance;
  - Summarize Evaluation and Comments from Trainees and provide training results to the requesting party(s); and
  - Update the Training Matrix.
- 5.5 Employees will be retrained whenever significant changes occur in plans, procedures, processes, and work instructions and or their superiors feel that retraining is required.

### 6.0 REFERENCES:

Quality Management Plan

Project Management Plan and Referenced Documents

### 7.0 EXHIBITS:

Exhibit 1- Training Matrix



# **HONOLULU RAIL TRANSIT PROJECT**

## **HART TRAINING PROCEDURE**

**2.PA-07-REV 1.0, 04-19-12**

**Exhibit 2 – Training Sign-in Sheet**

**Exhibit 3 – Training Evaluation and Comment Sheet**

Exhibit 1 – Training Matrix

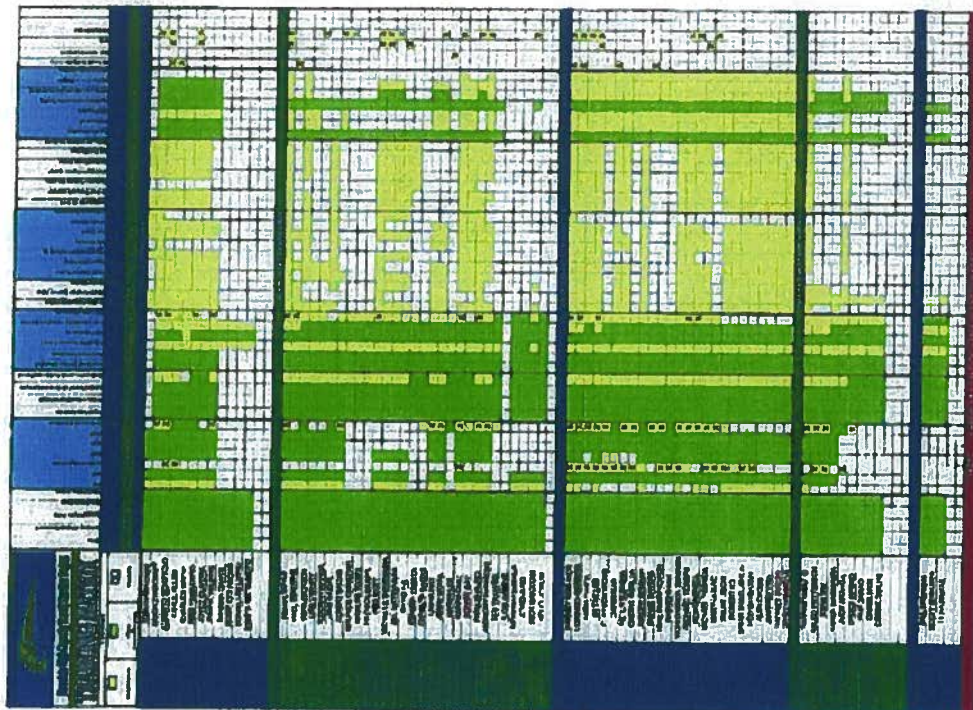


Figure 1

**Exhibit 2 – Training Sign-in Sheet**



**Honolulu High-Capacity Transit Corridor Project**

**Course Evaluation and Comments Sheet**

**COURSE TITLE:** \_\_\_\_\_

**LOCATION:** \_\_\_\_\_

**DATE:** \_\_\_\_\_

**Name:** \_\_\_\_\_

**Organization:** \_\_\_\_\_

**Evaluation Policy:**

- Each Attendee shall submit this Form after the Training has concluded.
- Please enter your responses in the gray areas.
- Please print clearly if hand written response.
- If generally satisfied rate 4 or higher.
- If you have concerns rate 3 or less. Constructive comments are required on evaluations rated 3 or less. Please no personal attacks.
- Use additional paper if needed.

☐ Please check here if you do not want your name divulged to management for follow-up purposes.

1. The Course will definitely enhance my knowledge and proficiency in performing my duties:

1 ☐ Poor      2 ☐      3 ☐      4 ☐      5 ☐ Excellent

Comments:

2. The Course is related to my work and will help me achieve the project overall goals:

1 ☐ Poor      2 ☐      3 ☐      4 ☐      5 ☐ Excellent

Comments:

**Exhibit 3 – Training Evaluation and Comment Sheet (2 of 2)**

# HONOLULU RAIL TRANSIT PROJECT

## HART TRAINING PROCEDURE

2.PA-07-REV 1.0, 04-19-12

3. The Trainer is professional/knowledgeable and would recommend to other department/organization:

1 ☐ Poor      2 ☐      3 ☐      4 ☐      5 ☐ Excellent

Comments:

4. The Classroom and accommodations are comfortable and environmentally controlled:

1 ☐ Not at all      2 ☐      3 ☐      4 ☐      5 ☐ Absolutely

Comments:

- 5 The Training Materials are sufficient and easy to comprehend:

1 ☐ Not at all      2 ☒      3 ☐      4 ☐      5 ☐ Absolutely

Comments:

6. Will you recommend this course to other RTD department/organization?

1 ☐ Not at all      2 ☐      3 ☐      4 ☐      5 ☐ Absolutely

Comments:

# APPENDIX 12

# CONTRACTOR'S LETTERHEAD

## APPROVED VENFORS LIST

CONTRACT NO.: **CT-HRT-10H0449**

CONTRACT NAME: **Maintenance & Storage Facility (MSF)**

CONTRACTOR: **Kiewit Kobayashi Joint Venture (KKJV)**

VENDOR	ITEMS	TRACEABILITY
<b>LB Foster/CXT</b> Spokane Valley, WA	Concrete Ties	Certificate of Conformance
<b>Evrast Steel</b> Pueblo, CO	Rails & Structural Steel	CMTR(s) & UT Report(s)
<b>Nortrak</b> Pueblo, CO	Direct Fixation Turnouts	Certificate of Conformance
<b>Sause Bros./Teevin Bros.</b> Rainier, OR	Shipping (Overseas)	Bill of Lading Shipping Manifest



# SUPPLIER/ MANUFACTURER SITE VISIT SUMMARY

**LOCATION:** Spokane Valley, WA  
**MATERIAL INSPECTED:** Concrete Tie Initial Plant Visit  
**DATE:** 7/10/2012  
**VISITED BY:** Jeff Heck, Chris Koenig

**SUPPLIER:** LB Foster  
**PROJECT:** Honolulu MSF  
**SPEC SECTION:** N/A  
**DRAWING:** N/A

## SUMMARY OF TRIP:

Initial plant visit to CXT. We met with Mark Hammons- National Sales Manager, Ginger Isaacson- Project Manager, James Parsley- Concrete Quality Assurance Manager, and Tim Carden- Plant Manager. We were given a tour where we saw how concrete ties were made from the beginning of the process to the end. CXT has four tie beds with each being 500' long. In addition, CXT batches their own concrete 3.5 CY at a time and gets all of their aggregates/ raw materials from the Old Castle pit next door. This is the same pit they have been using for 20 years and the pit has another 25 year life expectancy. In addition, CXT has an approximate 1,200 LF rail spur in the back where they can load rail cars. Ties are packaged for shipping in the back. Ties here are stacked up to 24 ties high and the customer specifies how they will unload the tie. Quality wise, CXT has an onsite quality lab where all tests are conducted. Certain aggregate tests are run by an accredited outside laboratory. CXT's lab is accredited too.

## TOP 3 TAKE AWAYS:

- 1 CXT staff very knowledgeable regarding product and process
- 2 Plant very clean and organized
- 3 Many options for how customer can get ties shipped

## VISITING INFORMATION:

**HOTEL:** Hampton Inn  
**AIRPORT:** Spokane, WA

**DISTANCE FROM:** 2 MINS  
**DISTANCE FROM:** 30 MINS

## PHOTOS:

Casting bed with ties



Empty Casting Beds



Empty Casting Bed with Replaceable Stamps





Concrete Tie Plant Overview- To the right is the tension wire, middle is the tie train which moves them outside for packaging, there are two beds on each side of the track



Ties stacked ready for shipment- Note rail shipments require 2" steel straps





CXT Tie stacking/ packaging area



Hydraulic Lifts up ties to push them out of casting bed





Swivel comes down, puts pressure on both ends of the ties and brings them up.



Swivel flips ties and puts them on center rail car to move them out into the yard for packaging.



# SUPPLIER/ MANUFACTURER SITE VISIT SUMMARY

**LOCATION:** Pueblo, CO  
**MATERIAL INSPECTED:** Steel and Rail Mill Initial Inspection  
**DATE:** 7/11/2012  
**VISITED BY:** Jeff Heck, Chris Koenig, Jake Speck

**SUPPLIER:** Evraz Steel  
**PROJECT:** Honolulu MSF  
**SPEC SECTION:** N/A  
**DRAWING:** N/A

**SUMMARY OF TRIP:** This was an overview of how rail is made. We visited the steel mill, rail mill, and metallurgy laboratory. The Evraz facility is huge and requires a car to be driven within the facility. We met at the guard headquarters which is on the east side of the freeway. Evraz requires steel toed boots but besides that it provides all safety gear. First we visited the steel mill where we saw how raw materials were turned into tubular blooms. Next we visited the rail mill where the bloom is rolled into rail. Each bloom is heated for 2.5 hours then rolled in several different machines to get the rail shape. The rail mill is where the rail is head hardened. Each bloom can make two 80' sticks. We finished our visit at the metallurgy laboratory. This was an extensive facility that ran numerous tests on different products. At the end, Evraz mentioned that the laboratory was available to run tests for Kiewit too as Kiewit is an Evraz customer. This may be beneficial when we have to get our thermite welder recertified for Hawaii. Evraz was running tests on both thermite and flash butt welds for several customers. On Evraz property, Nortrak, Holland (LB Foster's storage yard), Progress, and several others also have facilities. Give yourself around four hours for the tour.

**TOP 3 TAKE AWAYS:**

- 1 Clean, large facility with knowledgeable staff
- 2 Metallurgy Laboratory available to run tests for Kiewit
- 3 Numerous processes are proprietary so no pictures but they will explain the process in detail

**VISITING INFORMATION:**

<b>HOTEL:</b>	Hampton Inn	<b>DISTANCE FROM:</b>	3 MINS
<b>AIRPORT:</b>	Colorado Springs, CO	<b>DISTANCE FROM:</b>	1 HOUR

**PHOTOS:** No pictures allowed at facility. Evraz will provide pictures if requested.



# SUPPLIER/ MANUFACTURER SITE VISIT SUMMARY

**LOCATION:** Pueblo, CO  
**MATERIAL INSPECTED:** Turnout Plant Tour  
**DATE:** 7/11/2012  
**VISITED BY:** Jeff Heck, Chris Koenig, Jake Speck

**SUPPLIER:** Nortrak  
**PROJECT:** Honolulu MSF  
**SPEC SECTION:** N/A  
**DRAWING:** N/A

## SUMMARY OF TRIP:

This facility is where all direct fixation turnouts will be manufactured. All concrete tie (ballasted) turnouts will be produced in Cheyenne, WY. This plant had a flash butt welder for magnesium frogs, room to layout two turnouts at a time outside, and a small quality lab. During our discussions, we identified the main risk being Nortrak has been shipping turnouts without all the pieces lately. Nortrak has agreed to take pictures of the contents of all crates and send them to KKJV before shipment. Nortrak will also have a second quality check of each crate. This will allow KKJV to not have to open certain crates especially due to the fact that some turnouts will not be installed until after the MSF contract is over. We then went to see how turnouts will look when shipped, discussed some logistics, and discussed the need to meet in Cheyenne to get both Nortrak facilities on the same page.

## TOP 3 TAKE AWAYS:

- 1 Concern regarding Nortrak shipping without all the pieces of the turnout
- 2 Identified a solution to shipping concerns, need to follow up in Cheyenne
- 3 Clean facility

## VISITING INFORMATION:

**HOTEL:** Hampton Inn  
**AIRPORT:** Colorado Springs, CO

**DISTANCE FROM:** 3 MINS  
**DISTANCE FROM:** 1 HOUR

## PHOTOS:

Typical Nortrak turnout crate



# SUPPLIER/ MANUFACTURER SITE VISIT SUMMARY

**LOCATION:** Rainier, OR  
**MATERIAL INSPECTED:** Barge Port  
**DATE:** 7/9/2012  
**VISITED BY:** Jeff Heck, Chris Koenig

**SUPPLIER:** Sause Bros.  
**PROJECT:** Honolulu MSF  
**SPEC SECTION:** N/A  
**DRAWING:** N/A

**SUMMARY OF TRIP:** Met with Jeff Browning (Sause Bros.) and Paul Langner (Teevin Bros.). Teevin Bros is a logging company that owns and manages the yard. They offload any incoming cargo and prepare it to be shipped on the barge. Once it is ready it is placed into a designated area within the yard. Every three weeks a barge is loaded for Hawaii. At which point Sause Bros. stevedore labors come in and grab the load from a predestinated area and load onto the barge. Sause Bros. is the barge owner and shipper. There is an approximately 1500 ft rail spur on Teevin Bros. property and a side spur down the road. Teevin can have cars switched two times per day. There is approximately 80 acres of storage at Teevin Bros. Teevin Bros. has 50 tn capacity forklifts. Rail spur is Teevin Spur 4690, Avon Siding, Astoria Line, Portland and Western Railroad

**TOP 3 TAKE AWAYS:**

- 1 Teevin Bros./ Sause Bros. were very knowledgeable regarding material handling
- 2 Area has plenty of storage for materials and trains
- 3 Area was easily accessible by highway and rail

**VISITING INFORMATION:**

**HOTEL:** Stay in Vancouver, WA  
**AIRPORT:** Portland, OR

**DISTANCE FROM:** 1 HOUR  
**DISTANCE FROM:** 1 HOUR

## PHOTOS:

Overview of Sause Yard looking towards the Columbia River





Rail Spur at Teevin Bros./ Sause Bros. Yard



Barge Being Loaded (This is the smaller barge to Hawaii)



Barge Being Loaded- Shows Garaging of Rebar Similar to How Rail Will Be Garaged

